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COMPACT OF FREE ASSOCIATION

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HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

POTENTIAL IMPACT OF THE PROPOSED COMPACT OF FREE ASSOCIATION ON U.S. TERRITORIES AND COMMONWEALTHS

HEARING HELD IN WASHINGTON, DC
MARCH 7, 1985

Serial No. 99-9
PART I

Printed for the use of the
Committee on Interior and Insular Affairs

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I

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Note.—The first listed minority member is counterpart to the subcommittee chairman.

CONTENTS

Hearing held:

Page

- March 7, 1985 1

THURSDAY, MARCH 7, 1985

Statements:

- Akaka, Hon. Daniel K., a U.S. Representative from the State of Hawaii 5, 51
- Bordallo, Hon. Ricardo J., Governor of Guam 11, 62
- Montoya, Hon. Richard T., Assistant Secretary for Territorial and International Affairs, U.S. Department of the Interior 10, 57
- Panel consisting of:
  - Hon. William Brown, Deputy Assistant Secretary for East Asian and Pacific Affairs, U.S. Department of State 22, 82
  - Hon. James A. Kelly, Deputy Assistant Secretary for East Asian and Pacific Affairs, U.S. Department of Defense 24, 89
- Tenorio, Hon. Froilan, resident representative for the Northern Mariana Islands 41, 94

APPENDIX

THURSDAY, MARCH 7, 1985

Additional material submitted for the hearing record from:

- Hon. Ben Blaz, a U.S. Representative from Guam; and member, Committee on Interior and Insular Affairs: Prepared statement 47
- Hon. Daniel K. Akaka, a U.S. Representative from the State of Hawaii: Prepared statement 51
- U.S. Department of the Interior: Prepared statement of Hon. Richard T. Montoya, Assistant Secretary for Territorial and International Affairs 57
- Hon. Ricardo J. Bordallo, Governor of Guam: Prepared statement 62
- Hon. Fofo I.F. Sunia, a U.S. Representative from American Samoa; and member, Committee on Interior and Insular Affairs: Prepared statement 68
- Hon. Don Young, a U.S. Representative from the State of Alaska; and member, Committee on Interior and Insular Affairs: Prepared statement 76
- Letter from Hon. Jaime B. Fuster, a U.S. Representative from Puerto Rico; and member, Committee on Interior and Insular Affairs to Chairman Seiberling, dated March 5, 1985, transmitting comments on the March 7, 1985 hearing 77
- Hon. Carl T.C. Gutierrez, speaker of the Guam Legislature: Prepared statement 78
- U.S. Department of State: Prepared statement of Hon. William Brown, Deputy Assistant Secretary for East Asian and Pacific Affairs 82
- U.S. Department of Defense: Prepared statement of James A. Kelly, Deputy Assistant Secretary for East Asian and Pacific Affairs 89
- Commonwealth of the Northern Mariana Islands: Prepared statement of Hon. Froilan C. Tenorio, resident representative to the United States 94

Additional statements and correspondence were also received from:

- Hon. George R. Ariyoshi, Governor of the State of Hawaii: Letter to Chairman Seiberling, dated March 12, 1985, in support of the Compact of Free Association 106
- Commonwealth of the Northern Mariana Islands: Letter from the office of the Governor to Chairman Seiberling, dated March 28, 1985, transmitting comments on the Compact of Free Association 107

BEST [illegible] AVAILABLE

Page

Letter from Ambassador Fred M. Zeder II, Office of Micronesian Status Negotiations, to Chairman Seiberling, dated March 22, 1985, responding to your request for a point-by-point commentary on the statement delivered by Delegate Fofo Sunia at the March 7 hearing 111

Letter from Hon. Ron de Lugo, Delegate from the Virgin Islands to Chairman Seiberling, dated March 8, 1985, expressing concern about the implications for the U.S. islands of the proposed Compact of Free Association with the Federated States of Micronesia and the Marshall Islands of which you should be aware 119

COMPACT OF FREE ASSOCIATION

Potential Impact of the Proposed Compact of Free Association on U.S. Territories and Commonwealths

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THURSDAY, MARCH 7, 1985

House of Representatives,
Subcommittee on Public Lands,
Committee on Interior and Insular Affairs,
Washington, DC.

The subcommittee met, pursuant to call, at 9:50 a.m., in room 2237, Rayburn House Office Building, Hon. Ron de Lugo presiding.

Mr. de Lugo. The Subcommittee on Public Lands will come to order. This morning, we are holding a hearing on the Compact of Free Association.

Today the Public Lands Subcommittee holds another in its series of hearings on the proposed Compact of Free Association with the Trust Territory of the Pacific Islands.

The chairman, John Seiberling, has asked me to chair this hearing on his behalf and I am pleased to do so. I might say that Chairman Seiberling, who is really one of the hardest working subcommittee chairmen that I have ever seen in the Congress, and probably has chaired more subcommittee meetings in the past 3 years than any other single Member, is over at the Judiciary Committee this morning. There is some very important legislation before that committee, legislation that Chairman Seiberling is involved with. He may be visiting us briefly during this hearing, but if he doesn't, it isn't because he hasn't paid his dues.

I am pleased to see the chairman of the Republican Task Force on Territories joining us at this time, the distinguished Bob Lagomarsino of California, and we have with us, of course, my distinguished colleague from Guam, Ben Blaz.

I would like to welcome the witnesses and the other guests who are with us this morning.

This hearing opens the committee's inquiry into the impact that the compact, if enacted, would have on the U.S. insular areas of American Samoa, the U.S. Virgin Islands and the Commonwealth of Puerto Rico, as well as the State of Hawaii.

The compact proposes the unique political relationship suggesting direct social and economic implications for U.S. offshore areas. The insular areas already have difficulty maintaining the delicate balance represented by trade initiatives such as headnote 3(a) of the tariff schedules and they have suffered for decades the impact of national immigration quotas which have not taken into consideration the geographic and economic limitations of the insular areas.

The compact must be placed in the context of this country's primary responsibility to its flag territories and its commonwealths and to the State of Hawaii. The process of negotiating the compact, a laborious one, has not included this necessary analysis in my judgment.

Congress has a duty in this regard, one which it begins to execute in the course of today's hearing.

Our first witness this morning is my good friend from the State of Hawaii and we will be calling on you in just one moment, Danny, but first, I would like to ask if Mr. Lagomarsino has an opening statement.

Mr. Lagomarsino. Yes, I do, Mr. Chairman. Thank you. I have a very brief statement. I want to welcome today's witnesses also.

As an advocate of the U.S. insular areas, I consider today's testimony to be of major importance. Although the Compact of Free Association would change the political status of the Marshall Islands and the Federated States of Micronesia, it does not alter their geographical location. To the west lie the Northern Marianas and Guam and to the southeast lies American Samoa and to the north and east lie Wake, Midway, and the State of Hawaii.

Over the years, these island areas have shared similar problems and have worked together in arriving at mutually agreed solutions. Under the Department of the Interior, Micronesian policy has been coordinated with U.S. domestic and territorial policy. The ties that have bound these islands are economical, social, cultural and political. What we want to find out from this hearing is how future coordination will be affected under free association.

How will the close relationships that have developed since World War II between these Pacific Island communities be preserved and will the compact reinforce those ties or will it impose unnecessary restrictions upon continued regional cooperation and growth? These are some of the crucial questions that the subcommittee will address today and the answers to these will determine the future of the Central Pacific, so this is a very important hearing, and again, I am glad that you are all here and I am looking forward to the testimony.

Mr. de Lugo. I thank the gentleman from California for that statement, and at this time, I recognize the gentleman from Guam for any statement he may care to make.

Mr. Blaz. Thank you, Mr. Chairman, and I also want to add my welcome to the witnesses today on this very important hearing.

Mr. Chairman, I appreciate the opportunity to make a short statement at the outset of this hearing. The question of the Compact of Free Association for our friends in the Marshall Islands and the Federated States of Micronesia is extremely important and this subcommittee has played a most significant role in the House of Representatives in affording the compact the careful analysis and consideration that it deserves and requires.

I would, therefore, like to say at the outset that the Chair deserves the gratitude of all of us on the subcommittee, as well as of the administration and the trust territory, for devoting so much time and talent to this enterprise. I think that the hearings that have been organized have already highlighted important elements of the compact which will be important in the proper implementation of that document after it is approved.

The subject of our hearing today is the impact of the compact on the territories of the United States. Because I am from Guam, the U.S. territory closest to the Marshall Islands and the Federated States of Micronesia, I have an obvious interest in this subject.

More than that, Mr. Chairman, there is a personal dimension to my interest in this subject. You see, I have grown up with many of the Micronesians who are now the elected members of their Governments and who negotiated the compact on behalf of their people. They have told me time and again of their aspirations for the future, of their love for the United States, and of their desire to bring self-government and democracy to their people. Like other members of the Pacific Island family, they have a desire to move with, and not against, the prevailing consensus of the region.

In this sense, Mr. Chairman, it has been my observation that the Pacific island people tend to help each other, rather than take advantage of each other. I think this will be our guiding principle as the new compact comes into effect, as the people in my territory engage in the important task of reassessing their own relationship with the Federal Government.

I think it is important that the administration be aware that the implementation of the compact will give rise to matters, some of them today unforeseen, that will impact on the territories. Thus, when the compact is implemented, there should be consultation among the various Federal agencies as to how the interests of the United States in the region and how the interests of the American citizens who have lived there will be affected.

After all, the American citizens of Guam, joined by the American citizens of the Virgin Islands and Puerto Rico and the American nationals of American Samoa and the future American citizens of the Northern Mariana Islands must look to the Federal Government to represent their interests in foreign policy and national security.

We in the territories also look to the Federal Government for assistance to continue our economic development. We do not begrudge the assistance which our Government will provide to the Micronesians under the compact. The Micronesians have serious needs also, and they negotiated hard for the provisions of the compact, but we do need to keep our Federal territorial relations flexible and responsive so that as challenges and opportunities arise, some even generated by the compact, we can react intelligently and in the Pacific way.

Mr. Chairman, in preparing for this hearing, I was reminded of the last time I spent time with one of the most respected negotiators for one of the Micronesian States. We were recording passages and quotations from Patrick Henry's speeches, and suddenly my memory failed me. My friend looked at me and said, "We have known each other about as long as the Micronesian status negotiations have been going on and we are obviously getting old."

This makes me think that the time has arrived to make the compact a reality. My Micronesian friends are always reminding me that this is the only remaining trusteeship of the 11 created after

World War II, and I know that our brothers and sisters in the Northern Mariana Islands have been waiting patiently since 1976 for the end of the trusteeship so that it could assume their chosen status as a United States' commonwealth.

Under the Chair's leadership, I think a consensus is emerging for approval of the compact. My observation is that the time has come to let our Micronesian friends try their wings. They will do so with the support of those of us from the American Pacific who have grown up with them, known their frustrations and shared their joys. They will have our friendship as they move to the next stage.

As for us, I am confident that our relationship with the Federal Government is sufficiently vibrant and responsive to accommodate new challenges for opportunities that face us as a result of approval of the compact.

I look forward to today's hearing of testimony and questioning of the witnesses and I appreciate the opportunity provided in this hearing to voice my concerns.

[EDITOR'S NOTE.—Prepared statement of Hon. Ben Blaz may be found in the appendix. See table of contents for page number.]

Mr. LAGOMARSINO. Will the gentleman yield?

Mr. BLAZ. I am finished, so you can have it all.

Mr. DE LUGO. No, you have the time, General.

Mr. BLAZ. I do.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to congratulate the gentleman on his statement. I think it is a very thoughtful and realistic statement of where we are. There are a lot of us on the committee and in the Congress who weren't all that enthused about the compact that was primarily negotiated during the last administration. Many of us thought there were better ways of doing it, and I still think that perhaps that is true, but we are where we are. There have been plebiscites in all three of the areas, actually.

The people there obviously are in favor of this proposal and I agree with the gentleman. I think that, although we probably all, as with any piece of legislation, could have designed something that we would have liked better, that this is the one that we are faced with and the task before us is not only whether or not we will approve this, but how we can make the situation right and just for the territories that may be adversely affected by this compact.

I don't think the answer at this point, anyway, is to throw out the compact. That is not going to solve anything.

Mr. BLAZ. I thank you for your kind thoughts and I yield back the remainder of my time, Mr. Chairman.

Mr. DE LUGO. I thank the gentleman from Guam for an excellent statement. I think it reflects the concerns of all of us in the U.S. territories and the offshore areas. We realize the importance of this compact to our Nation; we are sensitive to the national security interest involved, but I think the reason that this committee is meeting this morning is because of the responsibility of the Congress for its U.S. territories and commonwealths.

This morning we are here to take a look at exactly how this compact will impact the offshore areas. Not only the territories, but also there is concern in the great State of Hawaii. My good friend, Danny Akaka, who will be the lead-off witness this morning—I think that, Danny, perhaps you are here not only as a representative of a great State, but as one who lived in a State that was a territory until fairly recently in historical terms.

You are sensitive to what can happen when you are a territory. Hawaii, after all, was a territory until the 1950's, and of course, I find the same sensitivity from my good friend, Don Young, from Alaska, on the Interior Committee, that he also is very sensitive of the recent history of Alaska having been a territory.

So with that, let me say it is a pleasure to have you here before this committee, Congressman Akaka, and I would like to say, Danny, that your statement, without objection, will be made a part of the record in its entirety and you may proceed by summarizing or reading the entire statement, whatever is your desire.

Good to have you here.

[Prepared statement of Hon. Daniel K. Akaka may be found in the appendix.]

STATEMENT OF HON. DANIEL K. AKAKA, A U.S. REPRESENTATIVE FROM THE STATE OF HAWAII

Mr. Akaka. Thank you very much, Mr. Chairman.

I would like to express my appreciation to you, Chairman De Lugo, and members of the Subcommittee on Public Lands for granting me this opportunity to discuss the Compact of Free Association and its impact upon the State of Hawaii. I am delighted to be here and I deem it a pleasure to come before your committee.

Since 1947, the Trust Territory of the Pacific Islands has been administered by the United States under a trusteeship agreement with the United Nations Security Council. The United States, Republic of Palau, Republic of the Marshall Islands, and Federated States of Micronesia are finally nearing a stage where this trusteeship will be terminated.

The Compact of Free Association is the result of more than 14 years of negotiations, spanning the administrations of four Presidents, and it establishes the basis for a stable relationship between the United States and the future freely associated states. The compact is a comprehensive agreement setting forth the basic governmental economic, security, and defense facets of the new relationship. As such, it will have far-reaching effects upon the State of Hawaii and other territories of the Pacific due to our relative proximity to the trust territory.

The compact exempts citizens of the freely associated states from passport, visa, and work permit requirements and enables these people to enter, reside, be employed, and attend school in the United States. When the trusteeship agreement is terminated, we can expect an influx of these individuals into the United States, taking advantage of the economic and educational opportunities offered in this country. The State of Hawaii, with its tropical climate and Pacific setting most closely resembling that of the freely associated states, expects to receive a majority of the new residents.

As a result of the immigration, the State's educational resources, job market, public assistance programs, and health care delivery system will be heavily taxed in providing essential services for the arriving individuals. Therefore, I urge the subcommittee to consider some type of compensation to reimburse the State for the heavy financial burden it will be expected to shoulder as a consequence of the compact. In our efforts to protect the welfare of the freely associated states, we cannot overlook the obvious economic liabilities placed upon our own States.

Along with these vital concerns, I would also like to address the issue of national security and its relationship to the compact. Presently, the U.S. National Missile Range, located on Kwajalein Atoll in the Marshall Islands, is the only major defense installation in the trust territory. Kwajalein plays a key role in the development, testing and maintenance of our Nation's long-range ballistic missile capabilities and continues to represent a major factor in our strategic nuclear defenses. However, Kwajalein's internal security is vulnerable and on four recent occasions, base operations had to be curtailed due to protests by Kwajalein landowners.

Furthermore, the United States has no long-term assurances that military alliances and basing rights with Japan and the Philippines will continue. Without maintaining our national security interests in the trust territory, the United States could lose the initiative in the Pacific and be forced into the strategic defensive. Hawaii must never be placed in a vulnerable position in an unfriendly Pacific Ocean. The compact must continue to assure that our vital national security interests in the Pacific are protected.

In addition to the protection of our national defense concerns, I believe the compact should preserve our economic interests as well. I encourage the subcommittee to consider some form of American preference program to assist U.S. firms in competing with subsidized Asian contractors for construction projects funded by the Federal Government. Present U.S. policy has been to permit foreign contractors to bid on America-financed projects throughout the world, including within the United States itself. The theory is that we should establish a free trade example for the world and encourage other nations to follow our initiative. In practice, however, other nations have not only failed to reciprocate, resulting in a significant reduction of U.S. contractor involvement in overseas projects, but instead have provided subsidies to their own firms through lenient tax treatments and government control of competition, recruitment and supply.

During the period from 1975–84, contracts for 35 capital improvement program construction projects, totaling $145 million, were awarded in the trust territory. Of that total, 19 projects worth $117 million were awarded to foreign contractors, while 16 jobs, worth only $28 million, went to U.S. firms. These numbers clearly indicate the need to stimulate our own economic interests in the Pacific region.

I also believe that this subcommittee should address the standing of obligations owed by the compact States. There is some concern in Hawaii and elsewhere as to whether debts owed to U.S. citizens and corporations by the government or citizens of the freely associated states will be honored in their courts. Certainly, we have every reason to hope that these nations will faithfully honor debts owed to foreigners once they achieve their new political status.

Nonetheless, I believe it would be wise to guarantee that debts owed to the United States and its citizens will be honored. In article IV of our Constitution, we require that States give full faith and credit to public acts and judicial proceedings of every other State. This article embodies the principle that courts should not be allowed to ignore the obligations that have been freely entered into by their citizens. In considering this legislation, I urge the subcommittee to establish a mechanism for guaranteeing that the freely associated states recognize the validity of debts, contracts, or other obligations owed to our Government and its citizens.

As a member of the Select Committee on Narcotics Abuse and Control, I would also like to address the drug enforcement implications of the compact. The illegal export of marijuana, narcotics, and prescription drugs through Micronesia is increasing. This drug trafficking comes at a time when Japanese organized crime groups, particularly the Yakuza, are increasing their influence in the trust territory as well as the United States. The increase of travel and commerce developing as a result of the compact creates the potential for opening new drug smuggling routes. The trust territory, with its multitude of islands, could become a major drug cultivation, processing, and transshipment point. The United States should insist that the governments of the compact States establish safeguards to prevent this action from occurring.

I understand that in considering the Compact of Free Association, the subcommittee may also address the related issue of cleanup of the Bikini Islands. Coming from an island community, I feel very close to the kinds of feelings of those people. I believe that relocation to their homeland has always been the greatest aspiration of the Bikinians. I feel that the United States has a moral obligation to return this atoll to its former condition, and I would support any legislation to achieve this goal. My personal hope is that our country will do all it can to make the situation culturally and socially right and just for those nations.

I have only briefly, Mr. Chairman, touched upon how the Compact of Free Association will affect Hawaii and the Pacific region. The social, economic, security, political, and law enforcement ramifications of the compact will have serious consequences for the United States, as well as for the future freely associated states.

The State of Hawaii is certainly willing to reach out to provide technical assistance for the developing regions. The State can undoubtedly be an invaluable resource for information and technological expertise for the freely associated states. We can help ensure that the compact States will develop and manage their resources efficiently, thereby achieving greater economic potential for the region.

In an effort to examine completely the concerns I have raised today, I urge the subcommittee to consider holding hearings in the State of Hawaii regarding the Compact of Free Association. This will give State officials the opportunity to expound upon the concerns which I have only briefly described.

In closing, I would like to thank you, Mr. Chairman, and to express my sincere gratitude to the committee for permitting me this opportunity to appear before you to discuss these issues of vital concern the State of Hawaii.

Thank you very much.

Mr. de Lugo. Thank you very much, Congressman Akaka.

Danny, that was a superb statement. It is one of the finest that I have heard in all the hearings that have been held on this matter. This is one of the best statements and I think that you can help this committee greatly with your background, your experience in the Pacific area.

I would like to ask if—I am aware that you are a member of the Select Committee on Narcotics Abuse and Control and you raised the question of narcotics, drug trafficking in the area in the Micronesian States. I wonder if the Micronesian States were to ask for specific recommendations from you as to how to meet this threat, how to control this problem, would you be in a position to provide that sort of information to them?

Mr. Akaka. Mr. Chairman, I would be very happy to. As you know, yesterday we announced the annual report from the Committee of Narcotics Abuse and Control. The report was dismal. It tells of the growing use of narcotics in our country and that in 1984, the cost of narcotics in our country was $110 billion and it is growing about $10 billion a year. We have had evidence of narcotics being transshipped through Hawaii and other parts of the Pacific, and I mentioned this in my statement just to make the committee aware of that problem, and also, now that you have asked, to tell you that we would certainly be happy to provide whatever information and assistance we have available to help those nations in the trust territory or the freely associated states.

Mr. de Lugo. I thank you very much. You know, these small island States are just ripe for the type of exploitation by these drug groups. Your remarks bring to mind the problem that has just arrived on the front pages of the newspapers yesterday, with the Turks in my area in the Caribbean, where I think the Prime Minister was arrested by the drug enforcement people.

What consultation was there with you or with the State of Hawaii during the compact negotiations on the potential impacts on the State of Hawaii by this compact?

Mr. Akaka. I don't know of any official consultation with me directly. However, we have been aware through conversations of what has been going on in these discussions. I think you know that I did propose and place into language to have a study conducted in Hawaii to determine the impact a move from the Bikini people to a Hawaiian island would make on the government there and the communities there.

I don't have any results of that study at the moment.

Mr. de Lugo. I note your suggestion, or your request, really, that this committee or committees, the Interior Committee, come to Hawaii to hold further hearings out there and I know that this is under consideration.

I note that we are joined by the gentleman from American Samoa. I would like to recognize the gentleman from American Samoa for any statement that he would like to make.

Mr. Sunia. Thank you, Mr. Chairman, I do have a statement to make. It is not very long, but it is long enough to cause some problems for some people, and it is a statement for both the people and the Government of American Samoa and me. I would like to do it properly. As you know, for some years, I have been trying to be the chief spokesman for the people, but the voters never did agree. I finally have my moment today, so I would like to do it properly. But I would relinquish, sir.

I understand Rick, the Governor of Guam, has to catch a plane, so I don't want to be responsible for his missing his plane, but I do want to say I am pleased to see all of our friends here today from State and from the Interior and from all the other agencies in the Government and I would like an opportunity later on, sir, to make that statement, if I could.

Mr. de Lugo. That is very gratious of the gentleman from American Samoa and the gentleman from Idaho, Larry.

Mr. Craig. Thank you very much, Mr. Chairman.

I do not have any statement to make at this time. I have followed the proceedings as we have moved along over the last 2 years in the consideration of this issue. I am very interested in it. I think it is critical to the interests of the peoples of the Pacific and certainly to our interests to make sure that we arrive at a just approach toward solving some of the problems and dealing with future problems.

I appreciate your interest in this.

Mr. de Lugo. I thank the gentleman for those remarks.

I yield to the gentleman from Guam for any questions he might have of the witness.

Mr. Blaz. A very brief one, sir.

I just want to congratulate you, sir, for adding a little different dimension than I have previously understood on the possible impact on the State of Hawaii. I can easily see that its proximity would cause it to be particularly attractive, and at the risk of sounding like I want to go to Hawaii for a subcommittee hearing, I think it may well be appropriate to do that because the concerns that you raised are indeed quite valid and can be very troublesome. But this is not to say that my asking the question or commenting on it is saying that we should not proceed with haste in trying to terminate the agreement, but I just want to tell you that you have caused me reason to read and reread your statement because I think you have raised some issues that I am sure also have an impact on the territory of Guam and other areas in the Pacific.

I thank you, sir.

Mr. de Lugo. The gentleman from California.

Mr. Lagomarsino. Mr. Chairman, I have a number of questions, but I think in order to save time, perhaps we could submit those for the record. They relate to such things as employment, law enforcement, extradition, and so on, and perhaps I will be able to ask some of the questions of the administration witnesses.

I thank our colleague for appearing.

Mr. de Lugo. I thank the gentleman from California.

I would like to say to the gentleman from Hawaii, your statement—again, I will say—it was excellent. You have raised a number of questions which we will be asking of administration witnesses and others who appear here today.

I would also like to extend an invitation. I realize that you have a hearing to go to right now, but if you find time this morning, let me extend an invitation for you to join the committee in case you might want to ask any of these questions yourself of the witnesses as they appear here this morning.

Whatever your desire is, I want you to know that you have contributed greatly to this hearing.

Mr. Akaka. I thank you for the invitation, Mr. Chairman. As you pointed out, I do have some hearings to attend both this morning and this afternoon. Thank you very much.

Mr. de Lugo. Thank you, Danny.

Our next witness will be from the administration. The Assistant Secretary of the Office of Territorial and Insular Affairs, Department of the Interior, the Honorable Richard T. Montoya.

What we are going to do—originally we were going to have a panel, but we are changing this. The chairman will use his prerogative to change this a bit because of the fact that the Governor of Guam has that plane to catch. We are going to hear first from Secretary Montoya and then I will interrupt the Government witnesses and ask Governor Bordallo to testify.

Ricky, good to have you here, and please proceed as you wish. Your statement is made a part of the record in its entirety.

Mr. Montoya. Mr. Chairman, if Governor Bordallo's schedule is tight, we would be more than happy to defer to him.

Mr. de Lugo. Well, the Chair feels that it—and I spoke to the Governor—I feel that it is helpful for the Governor to hear the position of the administration, since there may things that he might want to comment on.

Mr. Montoya. We will keep it short, Mr. Chairman.

Mr. de Lugo. Thank you.

[Prepared statement of Hon. Richard T. Montoya may be found in the appendix.]

STATEMENT OF HON. RICHARD T. MONTOYA, ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY STEPHEN E. SHAY, DEPUTY INTERNATIONAL TAX COUNSEL, U.S. DEPARTMENT OF TREASURY

Mr. Montoya. Mr. Chairman, at the table with me today is Steve Shay, Deputy Assistant Secretary and now international tax counsel at the Treasury. In my statement, Mr. Chairman, you will note that the areas that I have raised as areas of interest to us are the areas of taxation, trade, and immigration.

We at Interior are very pleased that the Congress is moving rapidly on the hearings process for enacting the Compact of Free Association for the Republic of the Marshall Islands and the Federated States of Micronesia. It shows the good-faith effort on the part of the U.S. Government to let self-determination rule and to implement this Compact of Free Association that has been in the negotiating mill for well over 5 years.

We feel that it is something that is needed. We heartily endorse the Compact of Free Association and, as I said initially, we feel that there are three areas that need some attention: the area of trade, the area of taxation, and the area of immigration.

We think that there are a lot of benefits to the U.S. territories from the implementation of the compact, mainly in what it can do with tourism in bringing in new dollars for infrastructure development in the trust territory and providing an opportunity to put together some package plans, so to speak, of tour plans, where they could start in Hawaii and stop in at many of the spots, one or all of the Federated States of Micronesia and then on to Guam and then back to their point of origin. We feel that this is going to be beneficial in that regard.

Also, the amount of construction that will be done in the freely associated states should provide some opportunities for contracting to some of the firms in the U.S. territories, and for that matter, in Hawaii.

Mr. Chairman, essentially that completes the points that I wanted to make. I think that it will enhance Guam and Hawaii by continuing to make them hubs for air and shipping in the Pacific.

Mr. DE LUGO. Mr. Chairman, in your prepared statement, you raise three of the major concerns of the territories and they are headnote 3(a), the trade concerns; second, compact taxation and third; immigration, which was also touched on by Congressman Akaka.

What I would suggest at this time, if it is agreeable to the rest of the members, is that we suspend from your testimony, since we will have a number of questions to ask you, Mr. Secretary, and at this time hear the Governor of Guam.

Is that agreeable? Well, then, without objection, we will ask you to wait a moment, Mr. Secretary, and ask the Governor of Guam to join us at the witness table.

Governor Bordallo, it is a pleasure to welcome you here before this panel and we look forward to receiving your testimony.

[Prepared statement of Hon. Ricardo J. Bordallo may be found in the appendix.]

STATEMENT OF HON. RICARDO J. BORDALLO, GOVERNOR OF GUAM, AND PRESIDENT, PACIFIC BASIN DEVELOPMENT COUNCIL, ACCOMPANIED BY BERNICE CARBULLIDO, DIRECTOR, WASHINGTON LIAISON OFFICE, OFFICE OF THE GOVERNOR OF GUAM; AND STEVEN SABLAW UNPINGCO, LEGAL ASSISTANT IN THE GOVERNOR'S OFFICE

Mr. BORDALLO. Thank you, Mr. Chairman, and members of committee.

I would like to introduce the two people with me here. To my left is the Washington liaison officer for the Governor of Guam, Bernice Carbullido; and to my right is my legal assistant in the Governor's office, Steven Unpingco.

I also would like to thank you for the extension of a very courteous gesture to allow me to testify early to be sure that I don't miss a plane. The fact that we are the most distant territory, we always are very sensitive to plane schedules so I appreciate this very much.

Mr. Chairman, I welcome this opportunity to testify on behalf of the people of Guam concerning the impact of the Compact of Free Association on our island territory. Too often in the past, the Federal Government has taken actions that result in significant and often unforeseen impacts on our island because our views were not solicited. We are, therefore, grateful to appear here today and would like to express our appreciation to you and the members of the committee for extending the invitation.

From the outset, I wish to stress that the people of Guam heartily endorse the Compact of Free Association. We urge that it be passed by the Congress as swiftly as possible. The compact is a necessary and deserved step forward in the political development of our fellow Micronesians. We look forward to even greater social, economic, and political interaction with our neighbors as a result of the compact's passage.

Despite the accidents of history that resulted in Micronesia's division into separate political entities, we share a commonality of heritage, lifestyle, and perspective that continues to bind us together.

One of my first acts as a freshman senator in the Guam Legislature some 30 years ago was to support the establishment of a Micronesian common market under an umbrella of a Commonwealth of Micronesia. It is a concept that I hope can come to fruition under the Compact of Free Association. On Guam, we view the compact with a tinge of envy. After all, Guam has been a loyal territory of the United States for more than 85 years, but our political development has remained essentially unchanged since the Organic Act of 1950.

Yet, with the impending approval of the compact, we see our fellow islands of Micronesia moving towards greater political autonomy than we currently are allowed. We are, therefore, hopeful that the compact's passage will provide further momentum to our efforts to transform Guam's political status to that of a fully self-governing Commonweath within the U.S. Union. It would indeed be ironic if the United States were to grant full self-determination to all of Micronesia except Guam.

As to the compact's direct impact on Guam, I wish first to state what we hope will not happen. We hope the compact will not compartmentalize Micronesia into competitive States, each forced to vie separately for United States and foreign assistance. We also hope that the view from Washington will not become compartmentalized with deferring policies for each of the five island entities in our region.

We therefore ask that Federal authorities look beyond the written provisions of the compact and encourage strong regional linkages among the freely associated states and the Commonwealth of Guam and the Northern Marianas. In this regard, I note that despite the political changes, the underying geopolitical and economic facts of Micronesia will continue to reinforce Guam's natural role as the commercial hub of the region. We will, therefore, be seeking, after due consultation with Washington, to establish new commercial, cultural and even political links with not only our Micronesian neighbors, but also with the surrounding States of the Pacific Rim.

This will be spelled out in Guam's Commonwealth Act when it is submitted to the Congress. I am aware that there have been reservations expressed in certain quarters about possible detrimental effects of the free immigration of Micronesians under the compact. It may strike you as unusual in these days of everyone looking out only for themselves, but we actually look forward to the day when we can welcome our Micronesian brothers and sisters to live freely among us. For too long, we have looked on in sadness as our neighbors and fellow islanders have been treated as criminals and deported for what strikes us as insignificant violations of the immigration laws.

In fact, we look forward to the day when all the barriers to immigration and trade within Micronesia will fall. It strikes us as a totally unnecessary hinderance to social and commercial interaction between the islanders when the customs and immigration clearance at the airport takes longer than the flight between islands. I strongly encourage you to make provisions in the compact, as we expect to in our Commonwealth Act, for the Micronesian entities to negotiate among themselves to drop all barriers to trade and immigration.

I have discussed with the other leaders of our region the concept of an organization of Micronesian States. I am hopeful that such an organization can provide the vehicle for the creation of the kind of Micronesian common market that we envision. I have discussed with other leaders the compact and its relation to the islands closely affiliated with the United States.

Just recently, the Pacific Basin Development Council, composed of the Governors of Guam, Hawaii, Commonwealth of the Northern Marianas, and American Samoa held a conference and discussed among numerous concerns the potential economic impact which may occur as a result of the compact. Speaking on behalf of the Council as its president, it is my pleasure to inform this committee that the Governors of these islands support the spirit and intent of the compact. We support the compact's benevolent intent and we are cognizant of our Micronesian neighbors' desire to improve their political, economic and social status, and at the same time, maintain their bilateral relations with that of the United States Government.

Concommitantly, we Governors have reserved the opportunity to review the compact and study the possible adverse effects it may have on the American islands of the Pacific. The Council has pledged to make a full assessment on the compact and will thoroughly discuss the issues which may arise should the compact be ratified.

The Council will identify the potential issues and will make appropriate suggestions and recommendations to this committee immediately upon the review and deliberation of the compact relative to the Pacific American islands. I state all this now on behalf of the people of Guam so that when our Commonwealth Act comes before the U.S. Congress for approval, you will appreciate our hopes and aspirations for cooperation with our neighbors.

We also hope for the support and understanding of our fellow Pacific islanders just as they now receive Guam's full endorsement of their self-determination through the Compact of Free Association.

In conclusion, we on Guam believe the compact constitutes a major step forward for all the people of the western Pacific. We urge the Congress to approve the compact and we pledge to cooperate fully with our island brothers and sisters as they take control of their own destinies.

For Guam, as well as for all our fellow islands in Micronesia, the compact is a prologue to a brighter future for all of us.

Thank you very much.

Mr. de Lugo. Thank you very much, Governor, for an excellent statement.

You mentioned that the council, the Pacific Basin Development Council, of which you are president, is going to make a full assessment of the compact. When would you estimate that assessment would be completed, because it seems to me that we have to know the impact of this compact before it is put into place, not afterward.

Mr. Bordallo. It is hard for me at this moment to assess the time it would take. We met following the National Governors Conference right here in Washington and from what I perceive, I think the main concern of the Governors will be just what Congressman Akaka had stated earlier. The movement of people because of this compact that might then place some economic burden on any State or territory because of their immigration is, I think, the only one of very central interest. But outside of that, I am not really that conscious of their feelings and I, therefore, can maybe try to make an educated guess, perhaps, in the next 30 days.

Mr. de Lugo. Governor, Chairman Seiberling is shooting for markup in late April—reporting the compact out of the subcommittee by late April, so if the council could complete its analysis before that date, it would be very helpful to this committee and to this gentleman in particular. My concern is that I know the members of this panel and the Members of Congress are friends of the territories and don't want them adversely impacted.

I think that if, in fact, there are going to be immigration concerns and I know there are great concerns in the area of trade and manufacturing and, you know, foreigners coming in—pulling most of your labor pool in the islands of Micronesia from foreign countries, not providing your labor pool from Micronesia itself, and finding the United States territories in a position where they cannot compete.

If these concerns are legitimate, I think we have to know about them now to see if we can address them.

May I ask you, Governor, does Guam expect treatment—you mentioned in your statement that you are viewing—Guam, with your long history of association with the United States view with some envy what is happening here in the trust territory?

Does Guam expect treatment from the United States equivalent to or better than that which would be provided the freely associated states under this compact?

Mr. Bordallo. Certainly nothing less, but we hope for an even better arrangement. We should sort of be the leaders and, again, even provide examples of those kinds of sophisticated opportunities of what will make the people of Micronesia better inspired to maintain very close relations with the United States.

Mr. de Lugo. Let me ask you this, Governor, how do you think the people of Guam would react if Guam were denied similar treatment?

Mr. Bordallo. It would be a very negative situation.

Mr. de Lugo. I want to thank you very much for your presentation and I recognize the gentleman from Guam for any questions he may have.

Mr. Blaz. Thank you, Mr. Chairman.

I just want to say that I was very pleased to hear the Governor give his testimony in his copyrighted candor. You know, he calls it like it is and I think it is going to add a lot to the understanding here, Governor, and I personally appreciate it. I think I am better for having heard your concerns, and I also share the view that if we—if there was any inclination that Guam would enjoy less than what has been negotiated with others, I think the Governor and I will be holding hands and coming up to Washington to say, "Hey, que pasa?" Thank you.

Mr. de Lugo. Thank you very much, General.

The gentleman from California.

Mr. Lagomarsino. Thank you, Mr. Chairman.

I want to congratulate the Governor on his testimony, also. I think it is very straightforward and points out some things that we need to consider.

It seems to me that we can't possibly foresee exactly what the effect will be on Guam and on Hawaii and on other areas, and I think it is probably impossible for us to try to draft legislation that would take care of all these things in advance. We can express our concern about it; we can know about it; and I think we can be prepared to ameliorate any things that go wrong, but it is very difficult, it seems to me, to compare Guam with what we are doing here because Guamanians are citizens of the United States; people in the trust territory will not be; that is worth something. How do you measure that in your equation?

So there are a lot of things that I think we will have to be looking at and that is one reason that I am very pleased that, although we don't have a separate subcommittee on the territories anymore, that we are proceeding as if we did and maybe even better because, as a result of lots of things, the gentleman from the Virgin Islands is now in effect chairman of the subcommittee that doesn't exist—but here we are—and we do—and I think we are extremely fortunate to have as the Assistant Secretary of Interior, a gentleman who really knows what he is talking about, is very interested and spends a lot of time and effort effectively and practically on this problem. So I am not really all that concerned about what the effect will be on the territories in the long run because I think we will take care of that. We are going to be well aware of it. We know what the problems are, I think, and when you finish your report, we will know even more.

Thank you.

Mr. Bordallo. I would like to maybe react to part of your statement, Congressman Lagomarsino. While we can't—I agree with you that we can't perceive the complete impact or ripple effect of the compact, but I think it is reasonable that there will be some period of adjustment and it is always economics that get people worried because everybody is constantly struggling to try to make a living to survive in this day and age, so if I could make a suggestion even prior to the report, maybe a sort of a task force or a committee or commission could be set up with a fixed-term period. It is reasonable that 5 years—it has got to happen or it just won't happen—and give that committee or task force the right to monitor and they, then, will evaluate where these complaints are. Hawaii says we have got a whole pocketful of people here and this is what they have done to our school system and so forth and so forth, even crime, and maybe for a reasonable period, whatever that may be, 5 years or 10 years, and this committee be authorized to actually come up with a decision and that it be binding to the recognition by the Federal Government in some form of financial support.

I just thought I would mention that.

Mr. DE LUGO. The gentleman from California? Thank you very much.

Thank you very much, Governor. Let me say this: I couldn't agree more with many of the statements that were made by the gentleman of California and particularly in the case of the Assistant Secretary, Secretary Montoya.

We know that we have got a friend in the Secretary and we are very fortunate—the territories are very fortunate right now and the people that they have on the Interior Committee, that they have here in Congress, and the people that they have in the administration, but the problem is that 2 years from now, we don't know who the players will be. When the train leaves the station, it is gone, so we want to look at this compact very carefully and make sure that the safeguards are there and to look at it while we have got our friends around.

Talking about friends, good members of the committee, I would like to recognize the distinguished delegate from American Samoa, Mr. Sunia. Fofo, for any questions that he may have.

Mr. SUNIA. No, sir; not at this point. I just want to congratulate the Governor for his statement, and I would like to echo your own remarks about our friend, the Assistant Secretary who handles the territories. I want to tell a story about that, but it would be too long.

About 2 years ago, as you recall, we were over on the Senate side, and I made a comment to which Senator Weicker objected, and he said, "Well, you have him for another 4½ years." I said, "Well, that will be—we will see about the elections," and he said, "No, you will have him for 4½ years," so I guess we are stuck with him for 4½ years, but it has been nice.

As for the gentleman from California, I appreciate his remarks, and it really doesn't make any difference to me whether we have a special subcommittee or not as long as Bob Lagomarsino sits here. That is fine with me.

Mr. DE LUGO. Amen to that.

Mr. SUNIA. Thank you, Mr. Chairman.

Mr. DE LUGO. Thank you very much.

One final question. Governor, has the Pacific Basin Development Council ever admitted any of the Micronesian governments to its membership? I believe that that was under consideration at one time and I was wondering——

Mr. BORDALLO. Yes, there was——

Mr. DE LUGO [continuing]. Has there been any progress there?

Mr. Bordallo [continuing]. Some discussion about association, you know, associates, but as time goes on, like I had mentioned in my statement, certainly we encourage very close ties with these communities.

Mr. de Lugo. That could be very helpful in the process of getting everybody to work together.

Mr. Bordallo. Yes, except, of course, as we have stated, it is meant to be—so that we have no legal problem and consistency, it was meant to be just the territories. Of course, the State of Hawaii.

Mr. de Lugo. Understood, Governor.

I understand the gentleman from Guam has an additional question.

Mr. Blaz. Governor, if my question sounds parochial, it is because it is. Do you think the subcommittee should hold a hearing on Guam?

Mr. Bordallo. It certainly would—you know, it always helps to hear more views.

Mr. Blaz. When you get to Hawaii, you are almost halfway to Guam, so why not go to Guam?

Mr. Bordallo. That is right, just another short flight down.

Mr. Blaz. OK, the answer——

Mr. Bordallo. I would hope there is equal treatment.

Mr. Blaz. OK, the answer is a resounding yes, then.

Mr. Bordallo. Oh, I endorse it, definitely.

Mr. Blaz. Thank you. I just wanted the record to show that the committee has been invited by the Governor of Guam to come to Guam.

Mr. de Lugo. Thank you very much, Governor, we may take you up on that. Thank you.

I thank the gentleman from Guam for his statement and thank you, Governor, for joining us here today.

Mr. Bordallo. Thank you very much. I really appreciate your courtesy.

Mr. de Lugo. Thank you.

At this time, I would like to recognize—before we call the Government witnesses back, I would like to recognize the gentleman from American Samoa, who very graciously yielded his time so that we could move along and hear the Governor of Guam. I would like to recognize the gentleman from American Samoa for an opening statement.

Mr. Sunia. Thank you very much, Mr. Chairman.

Let me say at the outset that I speak for Governor Lutali and the people of American Samoa and myself in making this statement. I am very pleased at the opportunity to make this statement, and I commend you and the committee for holding these hearings.

The issue before us this morning is of the utmost importance to the U.S. nationals and citizens of our country's flag territories. That is, the impact of the Compact of Free Association on our flag territories, especially American Samoa, the Virgin Islands, Guam, and the Commonwealths of Northern Marianas and Puerto Rico.

As a Member of Congress from an island constituency in the Pacific, I am happy that my confreres and consoeurs are soon to embark on a new and improved relationship of their choosing with the United States. I thoroughly approve of the status on which the

Federated States of Micronesia and the Marshall Islands will soon enter. This is what the voters of the FSM and the Marshalls have clearly demonstrated they want for their future. All who support the self-determination of emerging governments and their peoples should enthusiastically applaud the purpose and intent of the compact. I do.

While it gladdens me that the FSM and the Marshalls have striven to achieve free association with the United States, as the Member of Congress from a full-fledged flag territory, I must mention my apprehension at the lack of similar treatment for my constituents and for those of my colleagues from Puerto Rico, the Virgin Islands, Guam, and the residents of the Northern Marianas.

I do not begrudge or desire to change all the benefits that the FSM and the Marshalls will receive under this compact. These forms of assistance are good and, as they show the unequivocally expressed wish of the peoples involved, I do not oppose them, per se. However, I do not want these advances for the FSM and the Marshalls to erode the achievements of the bona fide U.S.-flag territories which have belonged to our country for over 86 years in the case of Guam and Puerto Rico and nearly 85 years in the case of my own territory.

We of the U.S.-flag territories do not covet what others have, but we do respectfully want treatment at least equal to what those who will not be of the American family will receive.

I would like to make particular points about five areas of the compact: environmental protection program assistance, grant assistance, trade and taxation. I will first deal with the environmental protection.

Under section 161 of the compact, the Marshalls and the FSM "shall develop standards and procedures to protect their environments." Although that section adds the proviso that these governments shall develop standards "substantively similar" to those in the Endangered Species Act of 1973, the Clean Water Act, and the Ocean Dumping Act, which apply to American Samoa and by which one may hold the residents of my territory liable, the compact allows enough ambiguity to permit a less stringent application of environmental protection in the FSM and the Marshalls than in the U.S. territory.

Here, these new associated states reap the benefits of being alien territory, yet section 162 of the compact treats the Marshalls and the FSM as if they were U.S. citizens when they bring civil suit against the United States for the latter's violations of environmental protection.

Second, in program assistance, the Marshalls and the FSM will receive under section 221, without compensation and at the same level as in the last year of the trust territory, these Federal services and programs: Weather service, the Federal Emergency Management Agency [FEMA], the Federal Aviation Administration, and the U.S. Postal Service. On this fourth item, I refer your attention, Mr. Chairman, and that of my colleagues on this subcommittee, to article IV, section 12, of the Federal Programs and Services Agreement concluded pursuant to article II of title II and section 232 of the Compact of Free Association (October 1, 1982).

Additionally, the United States will give the Marshalls and the FSM $10 million for postal services, weather services, civil aviation safety service, FEMA, education and health care services, all under section 232 of the compact.

Section 221 obliges the United States to make available to the Marshalls and the FSM such alternate energy development projects, studies, and conservation measures as applies to the trust territory at its termination. Also, citizens of the Marshalls, and the FSM who are receiving from the United States financial aid for post-secondary education at the termination of the trust territory will continue to receive, under section 223, such aid to complete their education to a maximum of 4 years after the effective date of the compact.

These are excellent provisions for the Marshalls and the FSM. I am glad that their citizens under free association will be able to enjoy them. Will my constituents be as lucky? Can I assure the residents of my territory, proud to remain within the American family, that our country will not treat them worse than those who are leaving the family?

Third, in grant assistance, the United States, under section 211 of the compact, will provide to the Marshalls, which had a population of 30,873 people at the last decennial census, the following amounts: $26 million per annum for 5 years on the effective date of the compact; $22,100,000 for the next 5 years, and $19,100,000 for the next 5 years, and to the FSM, which had a population of 73,160 at the last decennial census, the following amounts: $60 million per annum for 5 years beginning on the effective date of the compact; $51 million for the next 5 years; and then $40 million for the next 5 years. All that the FSM and the Marshalls must provide in order to get $151 million and $67,200,000 respectively is to dedicate no less than 40 percent of these amounts to the economic development plans, to which the United States will have concurred.

Under section 214, for 14 years beginning on the first anniversary of the effective date of the compact, the United States will provide $2 million per annum to the Marshalls and $3 million per annum to the FSM for energy production on a current grant basis. For communications systems, the United States will provide, under section 215(a) of the compact, on a grant basis for 15 years beginning with the effective date of the compact, $300,000 per annum to the Marshalls and $600,000 per annum to the FSM. No similar benefits accrue to the flag territories.

The United States will provide the following amounts on a current-account grant basis for 15 years commencing on the effective date of the compact: $890,000 [1] and $2,687,000 per annum for financial aid to support the post-secondary education of citizens of the FSM and the Marshalls attending American accredited postsecondary institutions in the United States, its insular possessions, the Marshalls, or the FSM, so long as the award of financial aid advances the economic development plans of the FSM and the Marshalls to which the United States has concurred.

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[1] Per annum for the surveillance and reinforcement by the FSM and the Marshalls of their maritime zones; $1,791,000 per annum for health programs in the FSM and the Marshalls.

All these benefits appear under section 216. Knowing that the Reagan administration has pledged to cut back severely any financial support to the one postsecondary institution in my territory, I must admit that I envy these educational grants to the new freely associated states. In addition, in connection with the FSM's and the Marshalls' surveillance of their maritime zones, section 216(b) of the compact provides $1,333,000 to these governments just to begin this work. As I understand no such amounts are available for these purposes in my territory or yours, Mr. Chairman, or Mr. Blaz' or Mr. Fuster's.

Unless there is a provision to the contrary, section 217 provides that the amounts I have mentioned for economic development, energy production, and communications systems will be adjusted in each year by that percent which equals two-thirds of the percentage change in the United States Gross National Product implicit price deflator or by 7 percent, whichever is less in any 1 year, with the beginning of fiscal year 1981 as the base.

Section 218 of the compact allows that, if in any year the funds from the United States for that year under any section of grant assistance are not completely obligated by the FSM and the Marshalls the unobligated balances will remain available in addition to the funds the United States will provide in subsequent years. I am sure that my colleagues, both stateside and from the other flag territories, would be overjoyed to be able to announce to their constituents that they had secured for their districts the benefits of these two sections alone.

Also, all funds that the United States had previously appropriated to the trust territory which are unobligated by the trust territory as of the effective date of the compact accrue under section 219 to the Marshalls and the FSM for the purposes for which the United States had originally appropriated such funds.

The fourth area is the most significant, Mr. Chairman, trade. Under article IV of the compact, the Marshalls and the FSM will be treated as if they were insular possessions of the United States within the meaning of headnote 3(a) of the tariff schedules for the purposes of assessing duties on products imported into the customs territory of the United States. All the exceptions, valuation procedures, and provisions of headnote 3(a) will apply to the FSM and the Marshalls. Fully alien land, the FSM and the Marshalls will enjoy all of the privileges of American-flag territories, yet without the watchfulness of the U.S. Department of Labor.

The FSM and the Marshalls alone will determine what will be the minimum wage for any segment of their workforce. Referring back to my point on environmental protection, I emphasize that they will structure their environmental laws, et cetera. What protection will the United States offer us, its flag territories, if lower wages and headnote 3(a) induce companies, industries and businesses now resident in our territories to move to the FSM and the Marshalls and bereave us of our main source of income, thousands upon thousands of jobs and primary employment for our constituents?

The fifth and last area with which I will deal is that of taxation, of prime significance to the U.S.-flag territories. Under section 255 of the compact, those provisions of the United States Internal Revenue Code, [IRC] which applied to U.S. possessions as of January 1, 1980, shall continue to apply to the Marshalls and the FSM.

If the U.S. Government has amended, modified, or repealed these 1980 provisions, they will continue in effect for the FSM and the Marshalls for 2 years, during which time the United States and the Marshalls and the FSM will negotiate an agreement to provide benefits substantially equivalent to those which were obtained under such provisions.

This means that the favorable 1980 possession tax credit of section 936 of the IRC, which will no longer apply to American Samoa and the other flag territories, will remain intact to benefit businesses in the new associated states. This can do nothing but harm to the U.S.-flag territories.

Mr. Chairman, I am sure you will agree with that. I know Rick and his friends know what I am talking about. I do not want you, Mr. Chairman, or my colleagues on this subcommittee to think that I oppose the terms of the compact per se, for I do not. At the same time, I must speak out on behalf of my people, my constituents. If 104,033 non-Americans in the FSM and the Marshalls will deserve all these benefits, then the 3,437,771 full-fledged Americans in the Northern Marianas, American Samoa, Puerto Rico, Guam, and the Virgin Islands will merit nothing less.

I thank you very much, Mr. Chairman.

[EDITOR'S NOTE.—Prepared statement of Hon. Fofo I.F. Sunia may be found in the appendix. See table of contents for page number.]

Mr. DE LUGO. I thank you, Mr. Delegate, for that statement. I am very glad that the administration witnesses are here to hear it. I think that you have laid out, in a very strong and very honest and a very reasoned way, our concerns regarding the compact.

At this time, I would like to ask the administration witnesses if they would come forward. Secretary Montoya, if you would retake your seat.

I would like to have Mr. William Brown, Deputy Assistant Secretary for East Asian and Pacific Affairs, Department of State, come forward; Mr. James A. Kelly, Deputy Assistant Secretary for East Asian and Pacific Affairs, Department of Defense. If you would come forward, we will proceed as a panel, but I want to go back at this point to the statement of the gentleman from American Somoa.

I think that it is a statement—certainly it is now a part of these hearings and this record—but I think that it is a statement that should be seen and read by every Member of Congress and by the administration because you have laid out the concerns for your area, but actually it reflects the concerns of the other areas, too.

I would like to suggest that perhaps you might consider putting this in the Congressional Record. If it is placed in the Congressional Record, all of the Members of Congress will see it and think about what has been said here.

One of the statements that you made, Fofo, that was, I think, the crux of the whole thing—you lay out the concerns regarding EPA, ocean dumping, clean water concerns, taxation. You lay out the bread-and-butter concerns, the dollar concerns regarding trade, which you list as the fourth area and I will go back to that in a moment. You lay out the problem with 936, which is under attack at the present time. The 936 provisions as they apply to Puerto Rico, to American Samoa, to Guam; 934 to the Virgin Islands.

You point out that that provision could be wiped out for the U.S. territories, but would remain in place for the trust territory. But the most significant statement you made was this, I believe. You said, "Can I assure the residents of my territory, proud to remain within the American family, that our country will not treat them worse than those who are leaving the family?"

Now, that is something for all of us to think about.

I would like to recognize at this time the distinguished delegate from Guam for a statement.

Mr. **Blaz.** Mr. Chairman, I just want to ask unanimous consent that the statement by the ranking Republican, Mr. Young, be entered in the record at this point.

Mr. **de Lugo.** Fine, thank you.

[**Editor's note.**—The above-mentioned statement by Hon. Don Young may be found in the appendix. See table of contents for page number.]

Mr. **de Lugo.** I have some additional—at this point, I would like to, without objection, enter into the record a letter to Chairman Seiberling, from our colleague, Jaime Fuster, the Resident Commissioner of Puerto Rico; and a statement from Carl Gutierrez, who is the speaker of the Guam Legislature. That will be made a part of the record, also. Without objection, so ordered.

[**Editor's note.**—The above-mentioned letter from Hon. Jaime B. Fuster, and prepared statement of Hon. Carl T.C. Gutierrez may be found in the appendix. See table of contents for page number.]

Mr. **de Lugo.** I want to thank you very much, Rick, for being so gracious. I know that you realize the problem we had. The Governor of Guam had to catch a plane.

Now we will get back on track and hear from the administration witnesses in panel, and I think this is the meat of the hearing.

Mr. Brown, Secretary Brown, do you have a statement that you would like to make at this time?

Mr. **Brown.** Yes, I do, sir. I would like to summarize it at your discretion, if I could.

Mr. **de Lugo.** Fine. Your entire statement is made a part of the record and you may proceed and summarize.

[Prepared statement of Hon. William Brown, and Hon. James A. Kelly may be found in the appendix.]

PANEL CONSISTING OF HON. WILLIAM BROWN, DEPUTY ASSISTANT SECRETARY FOR EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE, ACCOMPANIED BY JAMES D. BERG, POLITICAL AND ECONOMIC ADVISER, OFFICE OF MICRONESIAN STATUS NEGOTIATIONS; AND JAMES A. KELLY, DEPUTY ASSISTANT SECRETARY FOR EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF DEFENSE

Mr. **Brown.** Thank you. I am, indeed, pleased to appear before you today on behalf of the Department of State. My statement contains the position of the administration with respect to the legal status authority for self-government and international implications of the compact as compared to the U.S. territories.

As requested, I will address the manner in which the concerns of and the impact of the compact on the U.S. territories were addressed during the political status negotiations. I am happy, again, to be accompanied today by Mr. James D. Berg, a State Department officer.

The administration believes that from the perspective of the freely associated states, the most important single element of the compact is that it recognizes the sovereignty of their peoples and their right to self-determination and self-government.

Trusteeship agreement obliged—that is, the agreement of July 18, 1947—obliged the United States to prepare the area for self-government or independence. The compact, upon its enactment and execution, will replace the trusteeship agreement as the source of U.S. authority and responsibility in the area. The source of Federal authority and responsibility with respect to the territories is not a trusteeship agreement or a negotiated compact, but rather, the U.S. Constitution, which places plenary power in the Congress.

Congress, in turn, has delegated certain powers to the executive branch and to the local territorial governments. Each of these territories is self-governing, with elected executive and legislative branches and local court jurisdiction.

The freely associated states, upon termination of the trusteeship agreement of July 18, 1947, will be self-governing. The freely associated states will have full authority to establish their own citizenships, implement and change their own constitutions, elect their own political and governmental leaders, and exercise full rather than partial responsibility and authority in the management of their affairs, save only in defense and security matters.

In previous hearings, administration witnesses have discussed the manner in which the compact will enhance the achievement of U.S. foreign policy objectives. There are now two U.S. territories in the Pacific, Guam and American Samoa, and there will be a third, the Northern Mariana Islands. We believe that these territories will benefit by the assumption of self-governing status by the Marshall Islands and the Federated States of Micronesia and by their foreign affairs activities.

New avenues of participation in regional international activities have been identified for the territories as a result of our experience with the trust territory in its transition to a new political status.

Guam, for instance, enjoys associate membership in the Economic and Social Commission for Asia and the Pacific. The negotiation leading to the compact started in 1971, after the peoples of the trust territory, except for the Northern Mariana Islands, turned down offers of territorial status. During this negotiation, the U.S. negotiators made sustained efforts to consult with the elected and appointed leaders of the U.S. territories, especially Guam.

In terms of policy formulation, U.S. negotiating policy has been set by an interagency group which has always included the Department of the Interior. Interior has brought to that group its invaluable perspective as the Agency with administrative responsibility for the trust territory, as well as its familiarity with U.S. territories.

Finally, the elected chief executives of the future freely associated states have intensified their contacts with the territorial governments, we are pleased to note. This process is important in that new patterns of cooperation between the freely associated states and the territories are being identified and put into effect.

There are bound to be elements of the compact that will have impacts on the political and international environment in the Pacific. It may well be that the compact contains approaches to political and economic development challenges which could be of benefit to the territories. The administration believes that we will be in the best position to ascertain these developments in the context of implementation of the compact.

The administration believes that the Federal Government and the territorial governments will be poised to take advantage of new benefits which the compact may bring and, if appropriate, incorporate them in the respective Federal/territorial relationships.

In conclusion, sir, the administration believes that the enactment and implementation of the compact will give rise to new opportunity for the freely associated states, as well as the territories. The administration is confident that this subcommittee, the full Interior and Insular Affairs Committee and its Senate counterpart will be in a position with the territories themselves to make decisions with respect to the relationship and application of these opportunities to the Federal relationship with the territories.

I would be pleased, along with my colleagues, to respond to any questions, sir. Thank you.

Mr. DE LUGO. Thank you very much, Mr. Brown.

Mr. Kelly, Deputy Assistant Secretary for East Asian and Pacific Affairs, Department of Defense. Do you have a statement?

Mr. KELLY. I have a short prepared statement which I would like to submit for the record, Mr. Chairman——

Mr. DE LUGO. Fine.

Mr. KELLY [continuing]. And I would like to summarize it very briefly.

Mr. DE LUGO. Please proceed.

Mr. KELLY. I would summarize it, sir, by saying that the Department of Defense continues its strong support for rapid passage of the compact, and welcomes your assurance of its early consideration.

I would also like to note with appreciation the remarks of Mayor Jacklick of Ebeye in the Marshall Islands at a recent hearing of this subcommittee concerning the improvement of conditions on the Island of Ebeye. We have tried hard to be good neighbors to the citizens of Kwajalein, and I believe that the compact, which was so painstakingly drafted, will provide an excellent framework for the continuation of these good relations.

With respect to the topic of today's hearing, we do not, from a Defense Department viewpoint, anticipate any adverse implications for the U.S. territories or possessions that will result from entry into force of the Compact of Free Association.

I would, of course, be delighted to address any questions you may have in this or any other connection. Thank you, sir.

Mr. DE LUGO. Thank you very much, and your prepared statement will be made a part of the record in its entirety, without objection.

The compact would establish a free association relationship between the sovereign governments of the United States, the Federated States of Micronesia, and the Marshall Islands and would become freely associated states. What would become freely associated states are now entities of a trust territory administered by the United States on behalf of the United Nations.

The freely associated states would be able to exercise powers of independent nations other than in the defense area. They would also receive U.S. services, assistance and benefits, some of which are, and some of which are not available to U.S. territories and Commonwealths.

National powers, as defined by the U.S. Constitution, are exercised by the Federal Government on behalf of the U.S. territories and Commonwealths. Some U.S. islands have unsuccessfully sought from the Federal Government the right to exercise powers and receive benefits similar to those which the compact would accord the freely associated states.

In the mid-1970's, Puerto Rico sought a compact with the United States with provisions similar to some of those in the compact with the Micronesians to improve its Commonwealth relationship. Guam, itself a Micronesian island, is currently seeking a commonwealth relationship with provisions in a draft bill similar to some in the compact with the Micronesians.

I would like to address this question to Secretary Montoya. Would the administration support the approval of similar compacts for American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands? If so, when will it be prepared to begin negotiations?

Mr. MONTOYA. Very good question, Mr. Chairman. We have always taken the position in the administration that we will abide with the decisions of duly recognized plebiscites. For example, that is where we are in Guam right now; the governor has formed a commission to talk about renewing Guam's relationship with the United States and Mr. Liebowitz has been contracted to act as the person to put this package together.

We have not taken an official position on it, as that is the duty and responsibility of the U.S. Congress to look at the relationship that the United States has with the insular possessions. However, as I said, the administration would entertain thoughts, ideas, that reflected a consensus of opinion, the majority of the opinion, in the insular possessions. That has always been our policy and I am sure it always will be, but it is clearly something that falls first under the purview of the U.S. Congress, Mr. Chairman.

Mr. DE LUGO. Let me say on these questions that any of the administration witnesses who feel like commenting, please do, or who feel like jumping in, please jump in.

Mr. Secretary, that is a fine answer, but what is the level of commitment of the administration? Suppose the territories put together—let us say that in the case of Guam, they put together their package and they send it up here to the Congress. I am not sure exactly what the procedure is, whether it goes first—after being ratified back home—whether it is going to go to the administration, be presented from the administration to the Congress or whether it is going to be sent directly from the territory of Guam to the Congress.

What is the level of support that we can expect from the administration for this package?

Mr. MONTOYA. We share a common interest, as we saw during the recent past campaign, some of this administration's opponents made a great issue out of the deficit. This is something that we conservatives have been talking about for a long time, so I am sure we share a concern about the size of the growing Federal deficit. My point is that as long as these changes in status didn't involve greater pressure on Federal outlays, increasing the Federal outlays, I think we would entertain them, but we have a commitment under the compact that has been superbly negotiated by the Office of Micronesian Status Negotiations. Though it wasn't something that we generated, it was something that was accepted by this administration.

Mr. DE LUGO. Mr. Secretary, certainly the compact has a great many economic provisions in it and are you saying to the committee that the administration will support a political package from Guam or from Puerto Rico, but if it has economic provisions—if it is going to cost anything, that is a different story? How can we realistically expect these areas to come up with a Commonwealth document or whatever package they come up with without any economic provisions when so many of their concerns are economic, as was pointed out here today by the gentleman from American Samoa? There are trade concerns, tax concerns, immigration concerns that are economic, too.

How are they going to put together realistically a package that has no price tag on it?

Mr. MONTOYA. The problem here is dealing with hypotheticals. It is extremely difficult to deal with hypothetical situations that offer no specifics, but rather talk about what might be and different scenarios that might be developed——

Mr. DE LUGO. Let me ask you this, Mr. Secretary. The price tag on the compact is from $2 to $5 billion. Suppose the territories were to come up with a specific commonwealth proposal that incorporated the provisions of the compact? What would the reaction of the administration be?

Mr. MONTOYA. The reaction of the administration would be where these moneys are being spent, what needed to be done with these moneys versus what has already been done in these areas by the Federal Government in the past. When you try to compare the U.S. territories to the trust territory, it is basically like trying to compare apples and oranges.

The trust territory is not as well developed as Guam, Virgin Islands, or American Samoa. Many Federal resources have gone to the U.S. territories in the past and let's be candid about it, the U.S. territories are in much better shape, as they should be, than the trust territory and I believe that that was one of the reasons when we started the negotiation process what was looked at was the amount of assistance that needed to be provided to bring their infrastructure to a point where they could become economically self-sufficient.

They have a lot of catching up to do and I would defer to some of the folks that were specifically on the negotiating team, Secretary Brown and Jim Berg, but that was the thought behind it. If we were starting from a zero position in the U.S. territories, then I think I could say without any hesitation that the U.S. administration would entertain some different numbers. But that is not the case.

Mr. de Lugo. Let me ask you this, on behalf of the committee on this one: Specifically what provisions in the compact would the administration be willing to have applied to the current U.S. territories and Commonwealths, and what provisions would it not be willing to have apply?

Mr. Montoya. That is almost an impossible question, Mr. Chairman. It is important to note that Federal grants will not be extended to the freely associated states. These Federal grant programs are available to the U.S. territories.

When you look at the figures involved in the compact dealing with the Marshalls and the Federated States of Micronesia, we are talking about approximately $2.7 million, including Palau, so $2.4 billion over 15 years. Admittedly, when you look at the bottom line number, a summary number of $2.4 billion or including Palau $2.7 billion, is an impressive number. When you spread it out over 15 years, I think the point can be made that it is a fair amount and that the U.S. territories are getting a fair amount as well.

Mr. Sunia. Would the chairman yield?

Mr. de Lugo. Yes; I would be glad to.

Mr. Sunia. On the previous point made by the Secretary in comparing oranges and apples—now I submit that I find a difference kind of difficult to ascertain sometimes; sometimes they are both sweet, and they are very nice and they tell me it helps with my diet problem, but have we done a list to compare, for instance, for the past 10 years how much the Federal Government has put into the economic development of flag territories versus how much it has put into the economic development of the trust territory in the last 10 years alone, in the last 5 years alone?

I mean, when the Secretary makes the statement that, you know, we cannot compare them because it is difficult to compare because of the background, I think it is essential that we find out for sure how much it is that we have contributed to the development of the trust territory versus the flag territories.

I wonder if we have done such a study?

Mr. Montoya. Congressman, we would be glad to provide that. Jim, do you want to respond to that?

Mr. Berg. Congressman Sunia, as Secretary Montoya said, information certainly is ascertainable and can be provided. One point that I think is important to remember to augment what Secretary Montoya said about the economic assistance that will come in the future under the compact to the freely associated states is that it is a determinable and finite amount and the freely associated states will have no other call, no other guaranteed call on Federal assistance or resources.

So the one—what this means is that the one major element of advantage that the territories have had because they are American citizens, because they are part of the United States, they have a complete call on the resources of the Federal Government and on Congress, as do other American citizens, any American citizens, for support.

The compact, in effect, limits and makes finite what will be available to the freely associated states, while it does appear large when looked at in its totality over a 15-year period, certainly the research that my office, the Office for Micronesian Status Negotiations, has done in terms of doing these negotiation has indicated to us that it is not larger or disproportionate to the amount of assistance that traditionally, from all Federal departments or sources, has gone to the U.S. territories or that can be expected, given patterns that have developed in the past that can be expected to be provided to the U.S. territories.

Thank you, Mr. Chairman.

Mr. DE LUGO. Mr. Berg, would you identify yourself for the record, please?

Mr. BERG. Yes; my name is James Berg and I was identified in Secretary Brown's opening statement.

Mr. DE LUGO. Fine.

I think that when we were talking about that $2.4 billion over the next 15 years, I think that—am I correct—that is indexed for inflation from 1981?

Mr. BERG. I am sorry, Mr. Chairman.

Mr. DE LUGO. That the contribution to the Micronesian States, the $2.4 billion that was referred to by Secretary Montoya, that is indexed for inflation from 1981; isn't it?

Mr. BERG. Yes, sir; the number that Assistant Secretary Montoya gave includes the effect of the indexing. In other words, what the administration has done is it has anticipated——

Mr. DE LUGO. Anticipated.

Mr. BERG [continuing]. The performance of our economy 15 years out and has calculated, pursuant to the formula in the compact, the inflation adjustment and that number is included in the $2.4 billion.

Mr. DE LUGO. Thank you.

Now, I think you said that the document was finite; that what is in the package, that is it, but isn't it true that under the Senate provision, the action that was taken by the Senate in the last Congress, that the Micronesian States can request additional economic assistance and it can be granted to them?

Mr. BERG. That is certainly true in terms of some of the amendments which the Senate Energy and Natural Resources Committee added, but I might note it is also true under the terms of the compact itself, particularly compact section 224. The point that I hope I was able to make earlier to Congressman Sunia is that while it is always the case that the freely associated states could seek additional funds, there is no assurance that such will be made available. That would depend on a case-by-case basis on the action from the United States part of Congress. Congress would have to authorize that additional amount.

Mr. DE LUGO. I think the record should show that the Senate Energy and Natural Resources Committee last year in its provisions provided that the following services would be extended: Public Health Service, Legal Services Corporation, Farmers Home

Administration, Weather Service, Postal Service—they are in there; those three were added. All right. Public Health Service, Legal Services Corporation, and the Farmers Home Administration were added.

I don't think there is any question that the Federal Government has made great dollar contributions to its U.S.-flag territories. No one is here to say anything less because we know the job that the United States has done in these areas. I think that the concern is not in how many dollars you are going to throw at Micronesia versus how many dollar grants you are going to give to the U.S. Virgin Islands or American Samoa or Puerto Rico. I think that the concerns here—and they are legitimate ones—are what are going to be the impacts on areas like Hawaii, like American Samoa, like Guam, of the immigration provisions; what are going to be the impacts of the tax provisions; what are going to be the impacts of your headnote 3(a); are the U.S. territories going to be able to compete and has the administration looked at this in detail and does the administration have any concerns in this area. If so, what steps is the administration prepared to take to see that these legitimate concerns are met?

I will address that to Secretary Montoya.

Mr. Montoya. These are, in fact, the issues that I think we need to talk about today because the question of dollars and cents, as the chairman so eloquently put it, is interesting to note, but there is a commitment on the part of the administration. This is something that was negotiated in good faith. We are locked into it and we get a sense from the appropriate Members of Congress that there is an interest in moving this thing forward, but these concerns, as I like to refer to them, are things that we rightfully should be talking about.

Regarding the possibility of unlimited immigration into the territories like Guam, compact section 141(b) provided potential protection by authorizing the United States and territories to enact undiscriminatory legislation limiting the number of persons from the freely associated states who can establish residence in the territory. I think this is an important provision that was well thought out when it was put into the compact as something protecting the U.S. territories and I think it is something that is good to have in our hip pocket, so to speak, in case a problem does develop and there is a massive influx of folks that go above and beyond what Governor Bordallo was talking about in throwing the doors open and welcoming the Micronesian brothers and sisters into Guam and other places.

So there is a safety valve, so to speak, if the need becomes apparent. On the headnote 3(a), I think this is an important issue to discuss. I have long endorsed the concept of headnote 3(a) and have used the analogy that this is an important tool for the island economies to use to enhance their economic development potential. However, there is a flaw in it that hopefully—not necessarily in the compact, but at the appropriate place and time—will be corrected as it relates to headnote 3(a) specifically. That is the problem of not clearly defining what can be done with headnote 3(a) and we have seen some of the abuse that has come about by using this to provide jobs for aliens, rather than local residents of some of the territories.

One example is worse than others. This is something that I think can be handled outside of the compact process, but it is good to voice the concern of this committee and our office that this is something that at some point in time has got to be addressed because I would argue that headnote 3(a) was provided to the U.S. territories to provide jobs for indigenous people, rather than to allow aliens to come in and make use of the governmental services that are provided and build more pressure on those services, such as water, power, and the health installations.

In the area of taxation, the item that concerns me most, wearing my advocate hat, is the provision that we fought so hard for collectively and I have to commend the chairman and Congressman Sunia and Congressman Lagomarsino for the fine work they did in providing the industrial development bonding authority to the territories that weren't covered before. We fought hard for that. Congressman Sunia made it a point to make sure that American Samoa utilized that bonding authority and we have a fine project, as you know, Congressman, but there will be unlimited authority for the successor trust territory governments, and I am concerned about that because is it going to place them at a advantage that will hinder what we have been trying to do as a group?

We all recognize that the Pacific is, indeed, vast; however, the economies are so fragile in American Samoa, Guam, and Saipan that any fluctuation needs to be well thought out so that the balance isn't askew and creates a slowdown in the economic growth that most of the islands are enjoying right now.

Mr. DE LUGO. Mr. Secretary, I am very pleased with your response. I think that it underlines the fact that the concerns regarding headnote 3(a) and the tax provisions are legitimate concerns and that they should be addressed—or certainly looked at very, very carefully before this compact is finalized and put into place; that we know exactly what we are doing and what the impact is going to be on these U.S. areas.

Does the administration support the availability of the same tax benefits for investment in the U.S. territories and commonwealths that the compact would make available in the freely associated states; and that is, the benefits which were available in 1980? I will take an answer from anyone who wants to give me the right answer.

Mr. MONTOYA. Since we have got the person that is representing Treasury here, I would like to defer to my colleague, Steve Shay.

Mr. DE LUGO. Mr. Shay.

Mr. SHAY. Thank you.

I will have to give you a direct answer, Mr. Chairman, and the answer is no. I think that answer should be put in context.

As you are aware, the compact has a provision which provides for the application to the freely associated states of certain provisions of the Internal Revenue Code that are applicable to possessions of the United States as of a certain day. There is also a provision that provides generally that if those tax provisions are modified, they shall continue to apply with respect to the freely associated states for a period of 2 years during which negotiations will take place.

I think we have to step back in examining this provision, and look at the compact generally. I would make a few observations. First, the compact is a coherent document that covers in general terms a great number of areas that are quite specific. It is also a document that was negotiated over a long period of time with great effort, and very successfully, and those negotiation were completed a number of years ago. I think the document was actually signed in 1983, if that is correct.

The only point I would like to make, Mr. Chairman, is that some of these provisions are going to require interpretation. In particular, section 255 on its face is mildly ambiguous as to how it should be put into effect. I would make several further points.

First, in interpreting the domestic law of the United States, the domestic tax law, it is clearly within the realm of the Treasury Department and the Internal Revenue Service to provide those interpretations.

Second, I think it is clear from the statements here today by administration witnesses that the intent that should govern the interpretation of these laws—in particular as they apply to the compact—is to not give special advantage to the freely associated states except as it may be very explicitly provided. So I think that the answer to your question is no; we would not support these specific provisions, application of these specific provisions to the other territories, and I think we would try to interpret these provisions in a way that is consistent with the intent that has been manifested at this hearing, particularly in the statement of Secretary Montoya.

As a separate matter, I would indicate that while we have always tried to treat territories with an even hand, historically this has always been done through the application of different tax provision to different territories. I think our view is that the compact's tax provisions are of that nature; they apply a different regime, but it certainly is the judgment of the negotiators that the net effect of these provisions, as they would apply to the economy of the freely associated states in practice is that it is unlikely that they would skew the economic relationship between the freely associated states and the territories in such a way that would be material.

Now, if they did, I think the foresight of negotiators is evident by the fact that they provided mechanisms in section 421 allowing the United States to request consultations on matters of concern. I think that that is something that, in this area given the particular sensitivities, we would have to feel free to make recourse to if we found, in fact, that we had made a misjudgment and that, in fact, the tax provisions were being used in such a way that they had an unintentional impact, either from the Treasury's point of view that they might be abusive to the five, or from the view of the other territories, that they are having an impact that was outside the intent that was manifested in the statements today.

Thank you.

Mr. de Lugo. If the freely associated states were able to offer the equivalent or even better tax advantages than apply in the U.S. islands, is it possible that investment presently in the U.S. islands would relocate to freely associated states or be subject to stiff competition from freely associated states?

Mr. Shay. I think that really goes directly to the last point I was trying to make, Mr. Chairman. We don't anticipate that there would be a significant shift. Let me give an example.

Probably the most significant provision that section 255 applies to—section 936—that has been referred to previously. That provides a credit for tax and basically eliminates U.S. tax on qualifying income that is earned by a so-called possessions corporation from activities in a possession.

Now, that has had a very different level of utilization in different jurisdictions. In Puerto Rico, it has had enormous significance and in part—I think we have to be candid—because the provision became abused and legislation to curb that abuse has been enacted. Yet, notwithstanding that potential, it did not have nearly anywhere near the same impact or utilization with respect to the island of Guam. I think in this context, that is the measuring rod that we are concerned about, so as an example, I would not anticipate that the availability of 936 necessarily would cause a major shifting of investment to the freely associated states.

I would add, if we found our judgment more wrong, then we would want to request that consideration be taken into account of that fact. Assistant Secretary Montoya has reminded me, very correctly, that 936 has had a significant benefit for American Samoa and I think that is something we would want to watch very closely——

Mr. de Lugo. The tuna canneries, right?

Mr. Shay. That is correct, and we certainly would not want to see American Samoa lose a tuna cannery to the freely associated states——

Mr. de Lugo. What percentage of their economy does the tuna cannery represent? The industry?

Mr. Montoya. About 60 percent, I think.

Mr. de Lugo. About 60 percent of their economy?

Mr. Sunia. Mr. Chairman.

Mr. de Lugo. Yes.

Mr. Sunia. Would you yield, sir?

Mr. de Lugo. I would be happy to yield to the gentleman from American Samoa.

Mr. Sunia. I heard Mr. Kelly and Mr. Brown and Mr. Montoya here. I will tell you, I am not convinced that we are fully protected. Now, I just heard 1 minute ago a statement from our friend from the Treasury that his Department is not convinced that there will be a shift. Well, we are convinced there will be a shift, a combination of several things.

We mentioned section 936 here, and I don't need to explain to you the differences in advantages they will have over us, both, as I understand the administration's version of the bill that is presently being considered and everything that has been introduced in Congress so far deal with section 936 for American Samoa in the same manner.

Now, add to that headnote 3(a); add to that the fact that the new freely associated states, will not have the same application of the environmental protection laws that accompany will be subjected to in American Samoa. We will have no control over the wage laws, and they can set theirs at a level they will be pleased with. We are subjected to our own laws with regard to the minimum wages. All these things added together convinces us that there will be a shift.

We are talking about a cannery, and we think, well, it is such a massive thing, who is going to move that cannery around the Pacific just to enjoy the benefits of section 936 and low-wage laws and all that? I will tell you, it isn't hard to put up a cannery. Van Camp is putting up a cannery in American Samoa now. Van Camp has been at work for only about, what, 3 or 4 months, and I hear that Van Camp is going to have the best facility, one of the best of its kind, state of the art, put up in about 3 or 4 months. That is no problem to move these canneries around, and that is why I can assure you that we are concerned; we are almost certain that there will be shifts, and they will come soon, too, because it is not hard to pack up a cannery and move it around the Pacific, or anywhere else in the world, for that matter.

Mr. de Lugo. I would like to ask the Secretary if you have any comment on that? We are talking here about 60 percent of the economy of American Samoa.

Mr. Montoya. And 98 percent of the exports. It is an important thing that we have been blessed with and that is why we are having so much success in American Samoa because there is that private sector that is pulling the economy. We do know for a fact that there have been some folks that have looked at the Federated States of Micronesia, Congressman, for the possibility of putting in a cannery operation. However, we also hasten to mention that the cannery operation that was in operation in Palau closed down, so, you know, there is a lot of movement. The tuna industry is extremely competitive. We have been very fortunate in American Samoa, but there are some provisions that I think the tuna canneries are going to look at, such as some of the USDA requirements that American Samoa can provide. They are going to be rather difficult in the freely associated states, but we have been watching that.

Treasury has been most helpful in taking into account our concerns about 936 and 934 as it applies to the Virgin Islands.

Mr. Sunia. Mr. Chairman, may I have one more?

Mr. de Lugo. Yes.

Mr. Sunia. My point is—or the point we are trying to make here—when do we move away from the area of concern into the area of activity? Once this thing is passed, and we are still expressing concerns, it is passed. Shouldn't we be in the status where we are beginning to move, to make moves—I don't know what we are going to do—amendments or in other legislation to make the corrections so that we have assured ourselves, so we can assure the flag territories that they are protected before the final passage of the compact?

I think it is going to be a lot more difficult to try to make corrections after its passage. There won't be the interest, the level and degree of interest in the protection of flag territories then as we have now.

Mr. de Lugo. Let me say to the gentleman from American Samoa that that is the purpose of these hearings. This is the first hearing that I am aware of on the impact of the compact on the U.S. territories and Commonwealths. There have been a number of other hearings that were held, both in this Congress and in the previous Congress, on provisions of the compact and a great number of hearings have been held by the chairman. But this is the first on this, to my knowledge.

I think that the contribution that was made by the gentleman from American Samoa, your statement, and I think other statements that were made here today, should bring home to the administration the concerns that are legitimate and the request by the gentleman from Hawaii and the Governor of Guam that we go out to Guam and meet with them and hear their concerns are being taken into consideration.

I would like to hear from the representative from the State Department on the concerns raised by the gentleman from American Samoa.

Mr. **Brown**. I would venture that on this particular complex of issues, I would associate myself with the remarks of Assistant Secretary Montoya. It has been brought out that we are talking fundamentally about differences between political status of free association and the status enjoyed by U.S. territories. I don't want to necessarily be drawn into a comparison of apples and oranges and so forth, but it has been brought out that under the terms of the Compact of Free Association, we are pledged to provide a finite amount of assistance to the Marshall Islands and FSM and that assistance goes on annually for 15 years and although there have been amendments, the freely associated states, as I understand the current proposition, have no other call on Federal funding, nor will the broad—I underscore the broad—range of Federal programs apply.

With respect to the U.S. territories, there are some cases, such as American Samoa, in which the Federal Government has traditionally and still provides grant assistance at the level—at levels equivalent to those which we are, roughly speaking, proposing for the freely associated states on a per capita basis.

In other cases such as Guam and the Virgin Islands, the revenue base is comprised in large part of rebates from the IRS for taxes collected in the territory. In the case of all territories, however, Federal programs extend in the same way as they do to the States and the residents of the territories, as U.S. citizens, have a priority—I stress a priority call—on the resources of the Federal Government. That does not, sir, apply to the complex under the compact of free association for the Marshall Islands and FSM. So the situation is—when you come back again to a long history of negotiation over political status and the benefits that are associated to that political status, we have here a significantly different situation.

As far as the specific reference to canneries on American Samoa, having visited American Samoa, I am well aware of the tremendous importance of the cannery complex there in their total economic picture. I am also aware, as Assistant Secretary Montoya has pointed out, that the tuna business is extremely competitive. We are hearing about proposals for canneries throughout the Pacific—new canneries throughout the Pacific—far beyond the question of FSM and the Marshall Islands.

I see, in my reading, sir, references to cannery projects for Papua, New Guinea; for Fiji, et cetera. I think that ultimately in my unsophisticated viewpoint, these are going to be made on the basis of individual economic investment decisions by corporations based on a variety of factors, and in that connection, current wages, productivity, transportation and the general investment environment which may or may not pertain in various areas throughout the Pacific.

It is in my view, and will remain, a highly competitive and fluid situation.

Mr. MONTOYA. I would like to, if I may, Mr. Chairman, just add one point, the protection of the U.S. flag. Now, we have excellent leadership in the freely associated states and I don't want to detract from that leadership. But the fact of the matter is when you are talking multimillion dollar investments, I would offer that a corporation is going to look at the protection of the U.S. flag and the U.S. courts as a bottom line factor. This is something that will be factored in as they look at their profit margin and those things that go into costs of doing business, risk analysis, and the like.

For Congressman Sunia, one of the reasons that we were so pleased with the privatization of the Ronald Reagan Marine Railway was because it provides another anchor, another inducement to keep those canneries in Samoa. It provides an ease of operation, allows some efficiency in that operation, again increasing their profit margin. The reason that people locate in places is because quality of life, the closeness to the resource—the fish, which Samoa does have that, and the protection of the U.S. flag.

So some of these inducements that the negotiating team put in may be impressive, but are they going to work? Unfortunately, Mr. Chairman, we don't know. So that is why, Congressman Sunia, I have to list these as concerns because we really don't know how to react to these at this point. This is a fairly new experiment in political development and I think we should all be pleased that we are a part of it, but there is going to be a shakedown phase that is going to be very nerve-wracking.

I know it has been for us and I think it has been for the Office of Micronesian Status Negotiations. There will be a lot of gear-grinding, but I think this U.S. process, with its flexibility, can address these needs as they are identified.

Mr. DE LUGO. Mr. Secretary, gentlemen, I am glad you are all here today. You recall that when we started this hearing, I remarked on the history of Alaska and Hawaii and that Alaska can identify with the problems of the territory because of their recent history, having been a territory so recently.

I have a statement here from the ranking minority member of the full Committee of Interior Affairs and I am going to read it into the record aloud, and I hope that the administration will listen to it very carefully.

I don't want you to think that the concerns raised by the delegates or the resident commissioner are concerns that, well, you know, our brothers and sisters in the freely associated states of Micronesia are going to get a few bucks more than we got; it is not that. I think this hearing today—I think that if you look at it without prejudice, you have to see that the concerns are legitimate. Our concerns are not grants and dollars, although we do have some concerns in that area; our concerns are trade, tax policy, and immigration policy, et cetera.

This is a statement by the Honorable Don Young of the State of Alaska:

> Mr. Chairman and members of the committee, I would like to congratulate my friend, Mr. Sunia, on an excellent statement concerning the Compact of Free Association's impact on our friends, the U.S. flag territories. His detailed account of the benefits this documents gives to those who are leaving the U.S. family leaves me wondering what signal it sends to those territories who desire a relatively closer relationship with the United States.
>
> I am beginning to think that Alaska might want to consider freely associating with the United States, especially since it appears that these newly created States will be able to pick and choose which regulations and Federal actions they wish to be protected by and which ones they want to be protected from.
>
> Additionally, it occurs to me that we could use $3 billion over the next 15 years to develop our infrastructure which presently includes a road system that has less miles of paved roads than the District of Columbia. But Alaska is a State, and as such, cannot make such a decision.
>
> However, to my friend from American Samoa, I can understand why this package deal begins to look attractive. Yesterday, the full committee made its fiscal year 1986 budget recommendations. Because of the compact, the trust territories receive a 360-percent increase in funding. At the same time, we ask the members of our family to suffer with the rest of us by assuming a $10 million cut. What gives?
>
> I intend to take a much closer look at this document in the future because of the signal that it sends to our friends, the flag territories. I want Mr. Sunia, Mr. de Lugo, Mr. Fuster and my good friend from Guam, Mr. Blaz, to know that I will not be able to lend my support to this compact if I conclude that the trust territories will receive better treatment than our friends in the U.S. family.

That is a statement by the Honorable Don Young, and without objection, it is placed in the record.

At this point, I will yield to the gentleman from Guam for any questions he might have of the witnesses.

Mr. BLAZ. Thank you, Mr. Chairman. I don't know if I have a question as much as I have a comment, perhaps. As I have listened to the testimony this morning, I was impressed by the testimony of our colleague, Mr. Akaka, from Hawaii and the Governor of Guam.

The testimony seems to hinge on the impact that the Micronesians would have on the territories by coming to the territory. Mr. Sunia's thesis seems to indicate that the impact might be also felt on the reversal of that in that people might be tempted to go to the trust territory, and I must admit that the argument is rather compelling.

I think what the administration may want to consider is that this question, I think, is going to continue to arise. I think there are just too many questions that will have to be asked that eventually lead to that crux. I suggest that perhaps what we need here is a getting together of the various agencies in the administration and just answer that question. Just what impact it would have on the U.S. territories, from without and from within?

I think a PR effort might be in order here because I am committed to the compact. I have stated it. I state it now, but I must say that the comments that have been made have given me reason to ask for a little bit more from the administration by way of a statement of assurance and reassurance.

It is true that we are comparing apples and oranges, but I think that if one were to sit down and say the reason this argument is so-and-so is because of the following, it is true that we are starting from—and consequently you would want as a startup course much more millions than you would if you were just starting, say, where we are right now.

But because of these questions that have been asked, one wonders if perhaps more information might not be in order, kind of a grouping, a condensation of the issues here and reduce it down to that.

When I came in here, I was only concerned about what it would do to the territories as far as people coming into the territories, immigration, such as stated by Mr. Akaka. Now I am concerned about even people leaving Guam so they could go to the other islands because it is more attractive. It is not a fallacious thinking, by the way, as one might suggest, because we know in the territory of Guam as an example, we have people leaving Guam to go to the Northern Marianas because there is more attraction there.

So I don't know that you would want to view our comments as being anti this, anti the compact. Like I say, I think most of us want to see it resolved, but most of us also would like to see some more questions answered that might be more appealing because the public back home is less sophisticated than the people who testify here and the people who listen to the testimony.

If there is concern here, you can well imagine what it would sound like to a stevedore in Guam, me trying to explain to him that he shouldn't go to FSM because he belongs on Guam when there is more attraction for him at FSM.

I want to thank you all for your testimony. It has been a difficult one. As a matter of fact, it is kind of nice to be on this side. I have been on that side, by the way, folks. I know how you must feel right now, but it looks different from here and I am speaking not only as a member of the subcommittee, but, of course, as a Micronesian myself.

Thank you.

Mr. de Lugo. I thank the gentleman from Guam for those very cogent statements and I would just like to say that I know that the gentlemen at the table know that we are not hostile to the compact and certainly not hostile to the witnesses, but we are simply doing the job that we were elected to do. It is our job to take a look at it and we are going to do that.

Before I move to immigration, I would like to recognize the gentleman from American Samoa who has played such a significant role in today's hearings for any additional questions he may have at this time.

Mr. Sunia. Mr. Chairman, I only have one or two. I know I have said a lot this morning, and I don't want to take too much more time, and it is almost 12:30. Let me say, though, that I have—I was of the opinion when we started that after having been heard we would hear some offers from the administration—I have yet to hear one, and I think—I keep coming back to this point—I think we need to be a little bit more specific than we have been throughout these discussions.

We are all concerned. Nobody likes to deny his friends in the trust territory the benefits—nobody likes to do that, but if it gets to the point where it will harm and hurt our own particular territories, I am sure no one of us is going to be supportive of this in the end. I can guarantee you that.

So what do we do? I think we should be hearing from the administration some offers. Take, for instance, the area of section 936, which was mentioned extensively here this morning. I think we should hear something such as, "All right, you will be protected under section 936 the same way the trust territory will be protected." Now, I know it will upset a lot of other well-planned ideas with regard to the overall tax-writing activity that is going on right now, but that is the type of thing I am interested in. That is the sort of thing I am looking at.

I mentioned unobligated balances and the fact that the trust territory would be allowed to accumulate years and years of unobligated balances. I was hoping Rick would say something such as, "All right, we are going to work it so that you get the same type of privilege. That, Mr. Chairman, is the sort of thing I am looking for.

As I said, I am in support of this compact, but if it gets to a point where we are still concerned by the time it gets to the final action, I am sure there are going to be a lot of mind changes around here.

Thank you very much.

Mr. de Lugo. Thank you very much, Mr. Sunia.

You know, we have opened up so many questions this morning and I think that it is clear that there is need for additional hearings on this compact. As you know, the chairman of the full committee has asked me to take the lead on territorial matters in the full committee and I am planning additional hearings on the compact, in addition to the hearings that are being held today by Mr. Seiberling's committee, and I am also considering the request of the gentleman from Hawaii and the Governor of Guam.

Let me just touch on a few more questions in the area of immigration and then perhaps I might just say that we are going to wrap it up for today and we have Mr. Tenorio, who we will be hearing from, and after Mr. Tenorio, I think I am going to adjourn today's hearings with plans to have additional hearings once we have had a chance to think about what all has been said here today and perhaps seek some answers.

If the Marshall Islands and the Federated States of Micronesia opt to become sovereign states in free association with the United States and not, for example, a commonwealth like the Northern Mariana Islands, why should their people be permitted the freedom to enter, reside, work and receive services in the United States?

Let's address that to the State Department.

Mr. Berg. Mr. Chairman, that particular provision, those particular provisions of the compact were negotiated and agreed to by the United States for several reasons. First of all, the people of the freely associated states, the future freely associated states, have had a long history with the United States. We have been administering the area as a trust territory since 1947.

They have come to know the advantages of the United States and being associated with it, the personal advantages that they can derive as individuals because of our educational system, our advanced economy and things of that nature. They, therefore, sought, during the negotiation, the ability to continue the kinds of relationships, the kinds of personal plain relationships that they have had with the United States over the many years.

Very frankly, representing the Federal Government in the negotiation, I think all of us were proud that they should seek such a thing because they didn't have to, but it was a statement of their respect for this country and that is one of the reasons why we were glad to try to accommodate their request.

At the same time, however, we were concerned that it didn't go too far and that fragile elements of the United States itself could be protected, particularly the American territories, and particularly those in the Pacific, the obvious areas that citizens of the future freely associated states might go to. Therefore, as several of the administration witnesses this morning have already brought out, there is a specific provision in the compact in article IV of title I which recognizes the ability of the territories to—if they have that authority from the Federal Government, from the Congress—to regulate immigration on a nondiscriminatory fashion. If they are concerned with respect to a massive influx of people from the freely associated states, then they could deal with it in that way.

But I would just like to say this, also, about the movement of population. The Micronesians and the Marshallese who live in the future freely associated states are not waiting for the compact to come into effect so that they can leave. These people have lived there all their lives; their families are there; their homes are there. They live among persons of their own culture. This is where they speak their own languages and they are proud of their nationalities and proud of their islands and proud of their homes.

While I think it is certainly true that Micronesians and Marshallese will avail themselves of opportunities that we in the United States are blessed with and that the people in the United States territories are blessed with, they are not looking to leave their homes permanently. This may be a temporary movement for educational opportunities, for temporary job opportunities, but these people are Marshallese and Micronesians. That is where they were born; that is where they now live and our analysis of the situation is that is where they want to stay.

Thank you.

Mr. de Lugo. You had answered my follow-up question and done it very well regarding my concerns of the U.S. territories, but the State of Hawaii is almost as close to the Marshall Islands as the nearest territory and commonwealth is. Why doesn't the compact provide for Hawaii to be given the right to promulgate nondiscriminatory regulations and laws?

Mr. Berg. Mr. Chairman, the only thing I can say on that is that Hawaii is, of course, a State and it would be up to Congress, in its wisdom, to grant any of the States of the United States—and it probably would have to grant it to all the States—that particular ability. Immigration has been a Federal responsibility pursuant to the Immigration and Naturalization Act.

But I would say this with respect to Hawaii, and not to dispute the eloquent statement made by Congressman Akaka earlier this morning, the population of the Marshall Islands, as Congressman Sunia brought out, is about 30,000, a little bit more than that. The population of the Federated States of Micronesia is about 75,000.

Even if as high as 10 percent of those populations were to move to Hawaii—and I think that at the outside, that is probably unrealistic to expect that it would be that high a number—but even if it were, that is only 10,000 people, and Hawaii is a larger State and if activities occur in the United States which put a greater call on the resources of a State, on its social services, then that State, like any other State or any other jurisdiction within the United States, has the ability to seek assistance and to call on the resources of the Federal Government to accommodate, to change circumstances, and this would be a changed circumstance.

Mr. de Lugo. Could citizens of the United States earn their income from activities in the United States or its territories, but avoid income taxation by the United States or its territories by residence in the freely associated states for just over half the year?

Mr. Shay. I think I can say that could happen, Mr. Chairman. In other words, as the——

Mr. de Lugo. That could happen?

Mr. Shay. That could happen. As the compact is drafted, once a person becomes a resident in the freely associated states for over 183 days, then they would pay tax to the freely associated states, so it would depend, then, on how the freely associated states taxed that income.

Mr. de Lugo. How will the U.S. verify actual residence in the freely associated states for 183 days or how will the freely associated states citizens, claiming residence there for tax purposes, how will that be verified?

Mr. Shay. I am not sure—let me just take a hypothetical. If you have a U.S.——

Mr. de Lugo. I might make use of this answer. [Laughter.]

Mr. Shay [continuing]. If you have a U.S. tax law—wait until you hear the answer. [Laughter.]

If you have a U.S. taxpayer who moved to those freely associated states, I suspect that what we would do mechanically is when we saw a significant drop in income, if we had reason to believe that he wasn't there 183 days, we would assess the tax and make him prove he was there 183 days. In other words, in our system, the burden of proof, once the deficiency is assessed, is on the taxpayer.

Now, as to the latter, I am not sure how it works out, where you have a Micronesian who is a citizen of those territories. I think it is a different problem.

Mr. de Lugo. If an overpopulated nation wished, or if many of its citizens wished, could it or they not use the compact and the naturalization laws of a freely associated state if those laws were lenient enough to flood the United States or its territories with migrants who could not enter directly?

Mr. Berg. Mr. Chairman, the hypothetical situation that you mentioned would be affected by the fact that article IV of title I of the compact requires—it creates a class of people who are, for lack of a better term, the real Marshallese or the real Micronesians at the time the compact comes into effect—it contemplates that the benefits could be applied to naturalized citizens of the Marshall Islands or naturalized citizens of the Federated States of Micronesia only after they have resided—only after they have become naturalized and resided in the freely associated states for a minimum period of 5 years. In other words, they have demonstrated that their commitment is to the freely associated state. It is not, in other words, a quick backdoor to entrance into the United States.

Mr. Sunia. Mr. Chairman?

Mr. de Lugo. The gentleman from American Samoa.

Mr. Sunia. It may be that the newly freely associated states may not have any income tax at all for the first 15 years of existence. That might be something to think about. So after 183 days, why, no more problems?

Mr. Berg. Congressman, may I provide some information on that?

Mr. Sunia. Yes.

Mr. Berg. Each of the future freely associated states now does have not only a personal income tax, but also taxes with respect to imports, gross business receipts, et cetera. In order to try to make a determination as to what they are going to do during the period of the compact, one can look to, among other documents, their economic development planning activities and documents and they both do anticipate a continuation of personal income tax, as well as business taxes, and I think they will be increasing these taxes as time goes by because they understand the advantages of revenue to the government as a result of increased economic activity.

Mr. de Lugo. I want to thank you gentlemen for—I know it has been a long morning. We are now getting into the afternoon. I want to thank you for your patience and I want to thank you for the help you have been to this committee. We will be seeing you again in the near future.

Thank you very much.

At this time, I would like to hear from Mr. Froilan Tenorio, Washington representative of the Northern Mariana Islands.

Mr. Tenorio. And I might recognize, as Mr. Tenorio is coming to the witness table, in the audience today we had Ambassador Peter Rosenblatt, who negotiated the Free Association Compact under the Carter administration and Peter, it is good to have you here with us, and we commend you on all of the good work you did.

Mr. Rosenblatt. Thank you, Mr. Chairman.

Mr. de Lugo. Mr. Tenorio, your statement—we have your prepared statement before us and without objection, it will be made a part of the record in its entirety and you may proceed with your statement.

[Prepared statement of Hon. Froilan Tenorio may be found in the appendix.]

STATEMENT OF HON. FROILAN TENORIO, RESIDENT REPRESENTATIVE FOR THE NORTHERN MARIANA ISLANDS, ACCOMPANIED BY BRENDA Y. TENORIO, SPECIAL ASSISTANT, OFFICER OF THE GOVERNOR; AND DONALD C. WOODWORTH, LEGAL COUNSEL, RESIDENT REPRESENTATIVE FOR THE NORTHERN MARIANA ISLANDS

Mr. Tenorio. Mr. Chairman, today with me, to my right is Ms. Brenda Tenorio, special assistant from the Governor's office; and to my left, Mr. Don Woodworth, legal counsel of my office.

Mr. Chairman and members of this subcommittee, it is a pleasure to appear before you today on behalf of the Northern Mariana Islands to comment on the Compact of Free Association for the Federated States of Micronesia and the Republic of the Marshall Islands. I have reviewed the compact provisions and have brought with me a written statement which I would like to submit for the record. The compact is a complex document which provides for the creation of two freely associated states, unique political entities, which will assume many of the symbols of national sovereignty.

I don't pretend to have mastered all of the complex provisions, but it is easy to see that it is an innovative document with historic implications. I congratulate the parties for the hard work and perseverance required to conclude these negotiations.

Many of you know how long the people of the Northern Mariana Islands awaited the conclusions of these negotiations. Our own political aspirations will not be fulfilled until the compact agreement is approved and the trusteeship agreement is terminated.

Many of our people feel that our covenant with the United States has failed to create the commonwealth we desire, but instead, places us in a political purgatory with no end in sight. I am glad to see that the FSM and the Republic of the Marshall Islands will not face a similar long delay before assuming their rights and responsibilities under this compact.

The compact will become effective upon approval by the United States, rather than upon termination of the trusteeship.

I support the compact as a step forward, not only for FAS, but also for a step closer to commonwealth status for the Northern Mariana Islands. Unfortunately, I regret the fact that the Republic of Palau is not included in this compact proceedings. I fear that their absence means that the Mariana's weight is not over.

I would like to briefly comment on four transitional issues that I see in the compact:

No. 1: Citizenship. Section 141 of the compact confers the right to enter, reside, and be employed in the United States upon citizens of the FAS. These rights are virtually identical to those that the Northern Mariana Islands, as requested, be enacted for our citizens in a recommendation on a special U.S. passport by our NMI Commission on Federal Laws.

I ask the subcommittee to amend the Compact joint resolution to confer these rights upon citizens of the NMI, along with the citizens of the FAS. This is necessary in light of the fact that no one can predict when full U.S. citizenship will be conferred upon the people of the NMI.

No. 2: Federal property. Section 234 of the compact provides for the transfer of Federal property to the FAS. The section-by-section analysis says that these transfers are almost completed for the FSM and the Marshalls. I believe it is time that title to these properties be transferred to the NMI and I ask the subcommittee to consider amending the compact joint resolution to accomplish the transfer.

No. 3: War claims. As you know, some $24 million in adjudicated war claims remain unpaid. I am unsure whether these claims are included in the provisions of section 174(b). I request that the subcommittee consider an amendment to the compact joint resolution to expressly provide for the payment of those claims.

No. 4: Prior service. Under the TT Social Security System, many former employees of the administration have accrued benefits for their prior service to the Federal Government in Micronesia. I fear that the compact fails to provide funding to pay for those benefits. I don't feel that the NMI and the FAS should assume this financial burden and I encourage the subcommittee to save funding for these benefits.

On a policy level, I would like to comment on two provisions of this compact which have a potentially profound effect on the Northern Mariana Islands. First, the immigration provision of the compact, section 141, provides that citizens of the freely associated states may enter, establish residence and work in the United States, including the NMI. This provision conflicts with section 543(a) of our covenant with the United States. While we have always welcomed our brothers and sisters of Micronesia to the NMI, the section would also permit naturalized citizens of the FAS to enter the NMI after only 5 years' residence in the FAS.

In light of the citizenship proposals offered by Hong Kong interests, this provision could eventually have a large impact in the NMI. I feel that the subcommittee should not enact this provision without full consultation with the NMI Government.

Finally, the provisions of compact section 121(b)(1) recognize the capacity of the FAS to manage and conserve the ocean and marine resources in the waters surrounding their islands. In fact, both the FSM and the Republic of the Marshall Islands have already begun to take a leadership role in regional and international management efforts.

We in the NMI applaud these efforts and we believe that effective management and protection of the Pacific Ocean requires the best efforts of all coastal States and regional and international cooperation.

Sadly, our covenant is silent on the role that is appropriate for the NMI to play in this vital area. The United States has asserted jurisdiction over our 200-mile zone, even though the United States did not establish its own 200-mile zone until after the covenant was approved. I do not believe that trusteeship should be terminated without negotiations on this subject between the NMI and the United States.

I hope that some day our commonwealth government will join the freely associated states in their efforts to preserve and wisely manage our common ocean.

Again, thank you, Mr. Chairman, for this chance to speak. I wish the freely associated states the best of luck in their passage to self-government.

Mr. de Lugo. Thank you very much for—this is another well-thought-out statement. I think that the statements that have been made here today by the representatives of the various territories are to be applauded for the obvious thought and work that went into their preparation.

I want to ask you, Mr. Tenorio, what consultation was there between the negotiators and the people or the government of the

Northern Mariana Islands during the development of this Compact?

Mr. Tenorio. Mr. Chairman, as far as I know, there was no consultation between the negotiators and our government. Of course, I am not part of the administration, so I will ask Ms. Tenorio to answer that question. Not that I know of, anyway.

Mr. de Lugo. Ms. Tenorio.

Ms. Tenorio. No, we have had no prior consultation with the negotiators of the compact.

Mr. de Lugo. Thank you very much.

The gentleman from Guam. Any questions?

Mr. Blaz. No, I don't have any questions.

Mr. de Lugo. I might ask the gentleman, do you see the compact provisions as a whole as being more attractive than the covenant provisions?

Mr. Tenorio. Mr. Chairman, I think so. With that question, I would like to refer to the Under Secretary of the Interior's comments earlier about headnote 3(a). I think he was talking about the Northern Marianas in particular when he was referring to the abuse of the program. My understanding of the compact, Mr. Chairman, is that the United States—or rather, FAS, would not be required to abide with any regulations relating to alien workers.

At the present time——

Mr. de Lugo. That is the Chair's understanding, too.

Mr. Tenorio. At the present time, there is no such restrictions and it seems to me that if the compact were to become law today, then the FAS would be only bound to abide with whatever is in the lawbooks at this time. So that even if the United States were to amend the regulations or to legislate legislation which, as I understand, one is pending right now in the House of Representatives, that would limit the number of alien workers in the—for example, in this particular case, the textile industry—that legislation would not be binding on FAS, but it certainly would be in the Northern Marianas.

So in this particular case, I would say that the FAS is getting better treatment under headnote 3(a) than the Northern Mariana Islands.

Mr. de Lugo. I want to thank you for your statement.

Any questions from the gentleman from Guam?

Mr. Blaz. No, Mr. Chairman.

Mr. de Lugo. If not, I want to thank you, Representative Tenorio, and I want to thank all of the witnesses who appeared here today.

Let me say that I think that these hearings today have been very instructive. They brought out exactly what hearings are supposed to bring out, a lot of facts that perhaps not much thought has been given to. I will be reporting to the chairman on the substance of these hearings and meeting with the other members of this committee to put together a report for Chairman Seiberling's information, and in my role on the full committee, my responsibilities that have been given to me by Chairman Udall, I will be proceeding with additional hearings.

I, again, want to thank everyone for a very good hearing.

The committee is adjourned.

[Whereupon, at 1 p.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

[EDITOR'S NOTE.—For questions and answers on matter related to subject matter covered at this hearing, also see Compact hearing of June 12, 1984, Part IV, pp. 159-177.]

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APPENDIX

THURSDAY, MARCH 7, 1984

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

SUBCOMMITTEE ON PUBLIC LANDS
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

STATEMENT BY THE HONORABLE BEN BLAZ

HEARING ON THE COMPACT OF FREE ASSOCIATION

MR. CHAIRMAN:

I APPRECIATE THE OPPORTUNITY TO MAKE A SHORT STATEMENT AT THE OUTSET OF THIS HEARING. THE QUESTION OF THE COMPACT OF FREE ASSOCIATION FOR OUR FRIENDS IN THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA IS EXTREMELY IMPORTANT AND THIS SUBCOMMITTEE HAS PLAYED A MOST SIGNIFICANT ROLE IN THE HOUSE OF REPRESENTATIVES IN AFFORDING THE COMPACT THE CAREFUL ANALYSIS AND CONSIDERATION THAT IT DESERVES AND REQUIRES.

I WOULD THEREFORE LIKE TO SAY AT THE OUTSET, MR. CHAIRMAN, THAT YOU DESERVE THE GRATITUDE OF ALL OF US ON THE SUBCOMMITTEE AS WELL AS OF THE ADMINISTRATION AND THE TRUST TERRITORY FOR DEVOTING SO MUCH OF YOUR PERSONAL TIME AND TALENT TO THIS ENTERPRISE. I THINK THAT THE HEARINGS YOU HAVE ORGANIZED HAVE ALREADY HIGHLIGHTED IMPORTANT ELEMENTS OF THE COMPACT WHICH WILL BE IMPORTANT IN THE PROPER IMPLEMENTATION OF THAT DOCUMENT AFTER IT IS APPROVED.

THE SUBJECT OF OUR HEARING TODAY IS THE IMPACT OF THE COMPACT ON THE TERRITORIES OF THE UNITED STATES. BECAUSE I AM FROM GUAM, THE UNITED STATES TERRITORY CLOSEST TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA, I HAVE AN OBVIOUS INTEREST IN THIS SUBJECT. BUT MORE THAN THAT, MR. CHAIRMAN, THERE IS A PERSONAL DIMENSION TO MY INTEREST IN THIS SUBJECT. YOU SEE, I HAVE GROWN UP WITH MANY OF THE MICRONESIANS WHO ARE NOW THE ELECTED LEADERS OF THEIR GOVERNMENTS AND WHO NEGOTIATED THE COMPACT ON BEHALF OF THEIR PEOPLE. THEY HAVE TOLD ME, TIME AND AGAIN, OF THEIR ASPIRATIONS FOR THE FUTURE, OF THEIR LOVE FOR THE UNITED STATES AND OF THEIR DESIRE TO BRING SELF-GOVERNMENT AND DEMOCRACY TO THEIR PEOPLE. LIKE OTHER MEMBERS OF THE PACIFIC ISLAND FAMILY, THEY HAVE A DESIRE TO MOVE WITH, AND NOT AGAINST, THE PREVAILING CONSENSUS OF THE REGION.

IN THIS SENSE, MR. CHAIRMAN, IT HAS BEEN MY OBSERVATION THAT PACIFIC ISLAND PEOPLE TEND TO HELP EACH OTHER RATHER THAN TAKE ADVANTAGE OF EACH OTHER. I THINK THIS WILL BE OUR GUIDING PRINCIPLE AS THE NEW COMPACT COMES INTO EFFECT AS THE PEOPLE IN MY TERRITORY ENGAGE IN THE IMPORTANT TASK OF REASSESSING THEIR OWN RELATION WITH THE FEDERAL GOVERNMENT.

I THINK IT IS IMPORTANT THAT THE ADMINISTRATION BE AWARE THAT THE IMPLEMENTATION OF THE COMPACT WILL GIVE RISE TO MATTERS, SOME OF THEM TODAY UNFORSEEN, THAT WILL IMPACT ON THE TERRITORIES. THUS, WHEN THE COMPACT IS IMPLEMENTED, THERE SHOULD BE CONSULTATION AMONG THE VARIOUS FEDERAL AGENCIES AS TO HOW THE INTERESTS OF THE UNITED STATES IN THE

REGION AND HOW THE INTERESTS OF THE AMERICAN CITIZENS WHO LIVE THERE WILL BE AFFECTED. AFTER ALL, THE AMERICAN CITIZENS OF GUAM, JOINED BY THE AMERICAN CITIZENS OF THE VIRGIN ISLANDS AND PUERTO RICO AND THE AMERICAN NATIONALS OF AMERICAN SAMOA AND THE FUTURE AMERICAN CITIZENS OF THE NORTHERN MARIANA ISLANDS, MUST LOOK TO THE FEDERAL GOVERNMENT TO REPRESENT THEIR INTERESTS IN FOREIGN POLICY AND NATIONAL SECURITY.

WE IN THE TERRITORIES ALSO LOOK TO THE FEDERAL GOVERNMENT FOR ASSISTANCE TO CONTINUE OUR ECONOMIC DEVELOPMENT. WE DO NOT BEGRUDGE THE ASSISTANCE WHICH OUR GOVERNMENT WILL PROVIDE TO THE MICRONESIANS UNDER THE COMPACT. THE MICRONESIANS HAVE SERIOUS NEEDS ALSO AND THEY NEGOTIATED HARD FOR THE PROVISIONS OF THE COMPACT. BUT WE NEED TO KEEP OUR FEDERAL-TERRITORIAL RELATIONS FLEXIBLE AND RESPONSIVE SO THAT AS CHALLENGES AND OPPORTUNITIES ARISE, SOME EVEN GENERATED BY THE COMPACT, WE CAN REACT INTELLIGENTLY AND IN THE PACIFIC WAY.

MR. CHAIRMAN, IN PREPARING FOR THIS HEARING, I WAS REMINDED OF THE LAST TIME I SPENT TIME WITH ONE OF THE MOST RESPECTED NEGOTIATORS FOR ONE OF THE MICRONESIAN STATES. WE WERE RECALLING PASSAGES AND QUOTATIONS FROM PATRICK HENRY'S SPEECHES AND, SUDDENLY, MY MEMORY FAILED. MY FRIEND LOOKED AT ME AND SAID THAT WE HAVE KNOWN EACH OTHER ABOUT AS LONG AS THE MICRONESIAN STATUS NEGOTIATIONS HAVE BEEN GOING ON -- AND WE ARE OBVIOUSLY GETTING OLD. THIS MAKES ME THINK THAT THE

TIME HAS ARRIVED TO MAKE THE COMPACT A REALITY. MY MICRONESIAN FRIENDS ARE ALWAYS REMINDING ME THAT THIS IS THE ONLY REMAINING TRUSTEESHIP OF THE ELEVEN CREATED AFTER WORLD WAR II. AND I KNOW THAT OUR BROTHERS AND SISTERS IN THE NORTHERN MARIANA ISLANDS HAVE BEEN WAITING PATIENTLY SINCE 1976 FOR THE END OF THE TRUSTEESHIP SO THAT THEY CAN ASSUME THEIR CHOSEN STATUS AS A UNITED STATES COMMONWEALTH.

UNDER YOUR LEADERSHIP, MR. CHAIRMAN, I THINK A CONSENSUS IS EMERGING FOR APPROVAL OF THE COMPACT. MY OBSERVATION IS THAT THE TIME HAS COME TO LET OUR MICRONESIAN FRIENDS TRY THEIR WINGS. THEY WILL DO SO WITH THE SUPPORT OF THOSE OF US FROM THE AMERICAN PACIFIC WHO HAVE GROWN UP WITH THEM, KNOWN THEIR FRUSTRATIONS AND SHARED THEIR JOYS. THEY WILL HAVE OUR FRIENDSHIP AS THEY MOVE TO THE NEXT STAGE. AS FOR US, I AM CONFIDENT THAT OUR RELATIONSHIP WITH THE FEDERAL GOVERNMENT IS SUFFICIENTLY VIBRANT AND RESPONSIVE TO ACCOMMODATE ANY NEW CHALLENGES OR OPPORTUNITIES THAT FACE US AS A RESULT OF APPROVAL OF THE COMPACT.

I LOOK FORWARD TO HEARING TODAY'S TESTIMONY AND QUESTIONING THE WITNESSES AND APPRECIATE, MR. CHAIRMAN, THE OPPORTUNITY YOU HAVE PROVIDED IN THIS HEARING TO VOICE THESE CONCERNS.

THANK YOU.

Honorable Daniel K. Akaka
Subcommittee on Public Lands and National Parks
March 7, 1985

I would like to express my appreciation to the members of the Subcommittee on Public Lands for granting me the opportunity to discuss the Compact of Free Association and its effect on the State of Hawaii.

Since 1947, the Trust Territory of the Pacific Islands has been administered by the United States under a Trusteeship Agreement with the United Nations Security Council. The United States, Republic of Palau, Republic of the Marshall Islands, and Federated States of Micronesia are finally nearing a stage where this Trusteeship will be terminated.

The Compact of Free Association is the result of more than 14 years of negotiations, spanning the administrations of four Presidents. The Compact establishes the basis for a stable relationship between the United States and the future freely associated states. The Compact is a comprehensive agreement, setting forth the basic governmental, economic, security and defense facets of the new relationship. As such, it will have far-reaching effects upon the State of Hawaii, due to our relative proximity to the Trust Territory.

The Compact exempts citizens of the freely associated states from passport, visa, and work permit requirements and enables these people to enter, reside, be employed, and attend school in the United States. When the Trusteeship Agreement is terminated, we can expect an influx of these individuals into the U.S., taking advantage of the economic and educational opportunities offered in this country. The State of Hawaii,

AVAILABLE

with its tropical climate and Pacific setting most closely resembling that of the freely associated states, expects to receive a majority of the new residents.

As a result of the immigration, the State's educational resources, job market, public assistance programs, and health care delivery system will be heavily taxed in providing essential services for the arriving individuals. Therefore, I urge the Subcommittee to consider some type of compensation to reimburse the State for the heavy financial burden it will be expected to shoulder as a consequence of the Compact. In our efforts to protect the welfare of the freely associated states, we cannot overlook the obvious economic liabilities placed upon our own states.

Along with these vital concerns, I would also like to address the issue of national security and its relationship to the Compact. Presently, the U.S. National Missile Range, located on Kwajalein Atoll in the Marshall Islands, is the only major defense installation in the Trust Territory. Kwajalein plays a key role in the development, testing and maintenance of our nation's long-range ballistic missile capabilities and continues to represent a major factor in our strategic nuclear defenses. However, Kwajalein's internal security is vulnerable, and on four recent occasions, base operations had to be curtailed due to protests by Kwajalein landowners.

Furthermore, the U.S. has no long-term assurances that military alliances and basing rights with Japan and the Philippines will continue. Without maintaining our national security interests in the

Trust Territory, the United States could lose the initiative in the Pacific and be forced into the strategic defensive. Hawaii must never be placed in the vulnerable position in an unfriendly Pacific Ocean. The Compact must continue to assure that our vital national security interests in the Pacific are protected.

In addition to the protection of our national defense concerns, I believe the Compact should preserve our economic interests as well. I encourage the Subcommittee to consider some form of American preference program to assist U.S. firms in competing with subsidized Asian contractors for construction projects funded by the federal government. Present U.S. policy has been to permit foreign contractors to bid on American-financed projects throughout the world, including within the U.S. itself. The theory is that we should establish a free-trade example for the world and encourage other nations to follow our initiative. In practice, however, other nations have not only failed to reciprocate, resulting in a significant reduction of U.S. contractor involvement in overseas projects, but instead have provided subsidies to their own firms through lenient tax treatments and government control of competition, recruitment and supply.

During the period from 1975 through 1984, contracts for 35 capital improvement program construction projects totalling $145 million were awarded in the Trust Territory. Of that total, 19 projects worth $117 million were awarded to foreign contractors, while 16 jobs worth only $28 million went to U.S. firms. These numbers clearly indicate the need to stimulate our own economic interests in the Pacific region.

I also believe that this Subcommittee should address the standing of obligations owed by the Compact states. There is some concern in Hawaii and elsewhere as to whether debts owed to U.S. citizens and corporations by the governments or citizens of the freely associated states will be honored in their courts. Certainly, we have every reason to hope that these nations will faithfully honor debts owed to foreigners once they achieve their new political status.

Nonetheless, I believe it would be wise to guarantee that debts owed to the U.S. and its citizens will be honored. In Article IV of our Constitition, we require that states give full faith and credit to public acts and judicial proceedings of every other state. This Article embodies the principle that courts should not be allowed to ignore the obligations that have been freely entered into by their citizens. In considering this legislation, I urge the Subcommittee to establish a mechanism for guaranteeing that the freely associated states recognize the validity of debts, contracts, or other obligations owed to our government and its citizens.

Finally, as a member of the Select Committee on Narcotics Abuse and Control, I would also like to address the drug enforcement implications of the Compact. The illegal export of marijuana, narcotics, and prescription drugs through Micronesia is increasing. This drug trafficking comes at a time when Japanese organized crime groups, particularly the Yakuza, are increasing their influence in the Trust Territory as well as the United States. The increase of travel and commerce developing as a result of the Compact creates the potential for opening new drug-smuggling routes. The Trust Territory, with its multitude of islands, could become a major drug cultivation, processing, and transshipment point. The United States should insist that the governments of the Compact states establish safeguards to prevent this action from occurring.

I understand that in considering the Compact of Free Association, the Subcommittee may also address the related issue of clean-up of the Bikini Islands. Relocation to their homeland has always been the greatest aspiration of the Bikinians. The United States has a moral obligation to return this atoll to its former condition, and I would support any legislation to achieve this goal.

I have only briefly touched upon how the Compact of Free Association will affect Hawaii and the Pacific region. The social, economic, security, political, and law enforcement ramifications of the Compact will have serious consequences for the United States as well as for the future freely associated states. The State of Hawaii is certainly willing to reach out to provide technical assistance for the developing region. The State can undoubtedly be an invaluable resource for information and technological expertise for the freely associated states. We can help ensure that the Compact states will develop and manage their resources efficiently thereby achieving greater economic potential for the region.

In an effort to examine completely the concerns I have raised today, I urge the Subcommittee to consider holding hearings in the State of Hawaii regarding the Compact of Free Association. This will give State officials the opportunity to expound upon the concerns which I have only briefly described. In closing, I would like to express my sincere gratification for permitting me to appear before you today to discuss these issues of vital concern to the State of Hawaii.

STATEMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, BEFORE THE HOUSE SUBCOMMITTEE ON PUBLIC LANDS, REGARDING THE COMPACT OF FREE ASSOCIATION AND ITS RELATIONSHIP TO UNITED STATES TERRITORIES, MARCH 7, 1985

Mr. Chairman and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the Compact of Free Association and its relationship to the United States territories, including Guam, the Virgin Islands, American Samoa, and Puerto Rico, plus the Northern Mariana Islands and the state of Hawaii.

Compact

The Compact of Free Association is the result of more than fourteen years of negotiations. It is designed as a mutually beneficial relationship between the United States and the future freely associated states, which include the Republic of the Marshall Islands, and the Federated States of Micronesia. The Compact relationship is supported by valid acts of self-determination in the Marshall Islands and the Federated States of Micronesia, where, respectively, 58 percent and 79.2 percent of the votes cast in plebiscite were in favor of the Compact. We believe that the Compact also deserves the endorsement of the Congress.

We in the Executive Branch look upon the Compact as confirming sovereignty in, and establishing self-government for, the Federated States of Micronesia and the Republic of the Marshall Islands, with full recognition of mutual defense needs. We hope that the Compact is viewed as giving the freely associated states a legal stature equal to that of their island neighbors. The Compact, however, is not intended to give them advantage over United States territories in the area. Although the islands of the Pacific are separated by vast expanses of ocean, the neighborhood is small, with well established political and commercial relationships. We do not want to harm these relationships, especially those with United States territories.

Concerns

Concerns have been raised in the territories that not only is the Compact overly generous to the freely associated states, but that they will be given a material advantage over the United States territories. The most often noted advantages involve headnote 3(a) of the Tariff Schedules, taxation, and immigration.

First, regarding headnote 3(a), title two, article IV, of the Compact, entitled "Trade," provides that the future freely associated states will not be within the customs territory of the United States and that headnote 3(a) of the United States Tariff Schedules will apply to goods derived from the freely associated states. The United States territories are concerned that the Compact may be placing the freely associated states in a more favorable competitive position than they, because the freely associated states will not be subject to United States labor laws (including minimum wage and OSHA requirements), labor immigration laws, and laws dealing with envirnmental and shipping matters.

Second, Compact taxation is a concern in the territories. This issue was dealt with at considerable length in an earlier hearing before this subcommittee.

Third, immigration is an area of concern. Compact section 141 allows citizens of the Federated States of Micronesia and the Marshall Islands to freely enter the United States and its territories for the purposes of working or establishing residence. Guamanians, especially, are concerned that many of the current Trust Territory citizens will migrate to Guam for education and jobs.

It is important, however, to note that Compact section 141(b) provides protection for United States territories. This provision would limit entry into United States territories for the purpose of establishing habitual residence if such a limit is prescribed (1) by United States law or regulations, or (2) by the law or regulations of a United States territory or possession (if such territorial law is authorized by United States law). Thus, a mechanism exists for providing potential protection on the immigration issue.

Compact Benefits

While concerns have been voiced, in recent meetings with Pacific territorial governors, each spoke favorably about the Compact. The Compact should generally benefit the United States territories, particularly Guam and the Northern Mariana Islands, which are close neighbors of the future freely associated states. Specifically, Compact approval and termination of the trusteeship agreement will end a period of uncertainty for the Northern Mariana Islands. This process will clarify for the Northern Mariana Islands the application of a host of Federal laws and benefits. Perhaps, more importantly, however, it will make the people of the Northern Mariana Islands official United States citizens. Moreover, the stability and economic growth that the Compact is expected to provide will strengthen the entire western Pacific region and continue the growth already evident in tourism and investment. Guam and Hawaii will continue to develop as hubs of air service and sea transportion for this growing area. They will also be commercial, service, and equipment supply centers.

The Compact does not grant United States citizenship to the people of the freely associated states, nor does it provide for the application of United States law or the Federal court system as they exist in the United States territories. Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and

Puerto Rico, therefore, will retain their unique attraction for investors, manufacturers, and residents, alike. Just one example of the benefits of being part of the United States is the significant achievement of the United States territories in attracting the vast majority of the foreign sales corporations incorporated under the Deficit Reduction Act of 1984. When turmoil and financial uncertainty threaten various foreign areas of the world, the United States territories will remain as outposts of United States stability. For Asia, South America, and the Caribbean, they will continue to provide a safe haven for capital and a promising environment for regional business.

STATEMENT BY

THE HONORABLE RICARDO J. BORDALLO

GOVERNOR OF GUAM

TO

SUBCOMMITTEE ON PUBLIC LANDS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

MARCH 7, 1985

MR. CHAIRMAN, I WELCOME THIS OPPORTUNITY TO TESTIFY ON BEHALF OF THE PEOPLE OF GUAM CONCERNING THE IMPACT OF THE COMPACT OF FREE ASSOCIATION ON OUR ISLAND TERRITORY.

TOO OFTEN IN THE PAST THE FEDERAL GOVERNMENT HAS TAKEN ACTIONS THAT RESULT IN SIGNIFICANT AND OFTEN UNFORESEEN IMPACTS ON OUR ISLAND BECAUSE OUR VIEWS WERE NOT SOLICITED. WE ARE THEREFORE GRATEFUL TO APPEAR HERE TODAY AND WOULD LIKE TO EXPRESS OUR APPRECIATION TO YOU AND THE MEMBERS OF THE COMMITTEE FOR EXTENDING THE INVITATION.

FROM THE OUTSET I WISH TO STRESS THAT THE PEOPLE OF GUAM HEARTILY ENDORSE THE COMPACT OF FREE ASSOCIATION. WE URGE THAT IT BE PASSED BY THE CONGRESS AS SWIFTLY AS POSSIBLE.

THE COMPACT IS A NECESSARY AND DESERVED STEP FORWARD IN THE POLITICAL DEVELOPMENT OF OUR FELLOW MICRONESIANS. WE LOOK FORWARD TO EVEN GREATER SOCIAL, ECONOMIC AND POLITICAL INTERACTION WITH OUR NEIGHBORS AS A RESULT OF THE COMPACT'S PASSAGE.

DESPITE THE ACCIDENTS OF HISTORY THAT RESULTED IN MICRONESIA'S DIVISION INTO SEPARATE POLITICAL ENTITIES, WE SHARE A COMMONALITY OF HERITAGE, LIFESTYLE AND PERSPECTIVE THAT CONTINUES TO BIND US TOGETHER.

ONE OF MY FIRST ACTS AS A FRESHMAN SENATOR IN THE GUAM LEGISLATURE SOME 30 YEARS AGO WAS TO SUPPORT THE ESTABLISHMENT OF A MICRONESIAN COMMON MARKET. IT IS A CONCEPT THAT I HOPE CAN COME TO FRUITION UNDER THE COMPACT OF FREE ASSOCIATION.

ON GUAM, WE VIEW THE COMPACT WITH A TWINGE OF ENVY.

AFTER ALL, GUAM HAS BEEN A LOYAL TERRITORY OF THE UNITED STATES FOR MORE THEN 85 YEARS, BUT OUR POLITICAL DEVELOPMENT HAS REMAINED ESSENTIALLY UNCHANGED SINCE THE ORGANIC ACT OF 1950. YET, WITH THE IMPENDING APPROVAL OF THE COMPACT, WE SEE OUR FELLOW ISLANDS OF MICRONESIA MOVING TOWARD GREATER POLITICAL AUTONOMY THAN WE CURRENTLY ARE ALLOWED.

WE ARE THEREFORE HOPEFUL THAT THE COMPACT'S PASSAGE WILL PROVIDE FURTHER MOMENTUM TO OUR EFFORTS TO TRANSFORM GUAM'S POLITICAL STATUS TO THAT OF A FULLY SELF-GOVERNING COMMONWEALTH WITHIN THE UNITED STATES UNION.

IT WOULD INDEED BE IRONIC IF THE UNITED STATES WERE TO GRANT FULL SELF-DETERMINATION TO ALL OF MICRONESIA EXCEPT GUAM.

AS TO THE COMPACT'S DIRECT IMPACT ON GUAM, I WISH FIRST TO STATE WHAT WE HOPE WILL NOT HAPPEN. WE HOPE THE COMPACT WILL NOT COMPARTMENTALIZE MICRONESIA INTO COMPETITIVE STATES, EACH FORCED TO VIE SEPARATELY FOR U.S. AND FOREIGN ASSISTANCE. WE ALSO HOPE THAT THE VIEW FROM WASHINGTON WILL NOT BECOME COMPARTMENTALIZED, WITH DIFFERING POLICIES FOR EACH OF THE FIVE ISLAND ENTITIES IN OUR REGION.

WE THEREFORE ASK THAT FEDERAL AUTHORITIES LOOK BEYOND THE WRITTEN PROVISIONS OF THE COMPACT, AND ENCOURAGE STRONG REGIONAL LINKAGES AMONG THE FREELY ASSOCIATED STATES AND THE COMMONWEALTHS OF GUAM AND THE NORTHERN MARIANAS.

IN THIS REGARD, I NOTE THAT DESPITE THE POLITICAL CHANGES, THE UNDERLYING GEOPOLITICAL AND ECONOMIC FACTS OF MICRONESIA WILL CONTINUE TO REINFORCE GUAM'S NATURAL ROLE AS THE COMMERCIAL HUB OF THE REGION.

WE WILL THEREFORE BE SEEKING, AFTER DUE CONSULTATION WITH WASHINGTON, TO ESTABLISH NEW COMMERCIAL, CULTURAL, AND EVEN POLITICAL LINKS WITH NOT ONLY OUR MICRONESIAN NEIGHBORS, BUT ALSO WITH THE SURROUNDING STATES OF THE PACIFIC RIM. THIS WILL BE SPELLED OUT IN GUAM'S COMMONWEALTH ACT WHEN IT IS SUBMITTED TO THE CONGRESS.

I AM AWARE THAT THERE HAVE BEEN RESERVATIONS EXPRESSED IN CERTAIN QUARTERS ABOUT POSSIBLE DETRIMENTAL EFFECTS OF THE FREE IMMIGRATION OF MICRONESIANS UNDER THE COMPACT.

IT MAY STRIKE YOU AS UNUSUAL IN THESE DAYS OF EVERYONE LOOKING OUT ONLY FOR THEMSELVES, BUT WE ACTUALLY LOOK FORWARD TO THE DAY WHEN WE CAN WELCOME OUR MICRONESIAN BROTHERS AND SISTERS TO LIVE FREELY AMONG US. FOR TOO LONG, WE HAVE LOOKED ON IN SADNESS AS OUR NEIGHBORS AND FELLOW ISLANDERS HAVE BEEN TREATED AS CRIMINALS AND DEPORTED FOR WHAT STRIKES US AS INSIGNIFICANT VIOLATIONS OF THE IMMIGRATION LAWS.

IN FACT, WE LOOK FORWARD TO THE DAY WHEN ALL THE BARRIERS TO IMMIGRATION AND TRADE WITHIN MICRONESIA WILL FALL. IT STRIKES US AS A TOTALLY UNNECESSARY HINDRANCE TO SOCIAL AND COMMERCIAL INTERACTION BETWEEN ISLANDERS WHEN THE CUSTOMS AND IMMIGRATION CLEARANCE AT THE AIRPORT TAKES LONGER THAN THE

FLIGHT BETWEEN ISLANDS.

I STRONGLY ENCOURAGE YOU TO MAKE PROVISIONS IN THE COMPACT, AS WE EXPECT TO IN OUR COMMONWEALTH ACT, FOR THE MICRONESIAN ENTITIES TO NEGOTIATE AMONG THEMSELVES TO DROP ALL BARRIERS TO TRADE AND IMMIGRATION.

I HAVE DISCUSSED WITH THE OTHER LEADERS OF OUR REGION THE CONCEPT OF AN ORGANIZATION OF MICRONESIAN STATES. I AM HOPEFUL THAT SUCH AN ORGANIZATION CAN PROVIDE THE VEHICLE FOR THE CREATION THE KIND OF MICRONESIAN COMMON MARKET THAT WE ENVISION.

I HAVE ALSO DISCUSSED WITH OTHER LEADERS THE COMPACT AND ITS RELATION TO THE ISLANDS CLOSELY AFFILIATED WITH THE UNITED STATES. JUST RECENTLY, THE PACIFIC BASIN DEVELOPMENT COUNCIL, COMPOSED OF THE GOVERNORS OF GUAM, HAWAII, COMMONWEALTH OF THE NORTHERN MARIANAS AND AMERICAN SAMOA, HELD A CONFERENCE AND DISCUSSED AMONG NUMEROUS CONCERNS THE POTENTIAL ECONOMIC IMPACT WHICH MAY OCCUR AS A RESULT OF THE COMPACT.

SPEAKING ON BEHALF OF THE COUNCIL AS ITS PRESIDENT, IT IS MY PLEASURE TO INFORM THIS COMMITTEE THAT THE GOVERNORS OF THESE ISLANDS SUPPORT THE SPIRIT AND INTENT OF THE COMPACT. WE SUPPORT THE COMPACT'S BENEVOLENT INTENT AND WE ARE COGNIZANT OF OUR MICRONESIAN NEIGHBORS' DESIRE TO IMPROVE THEIR POLITICAL, ECONOMIC AND SOCIAL STATUS, AND AT THE SAME TIME MAINTAIN THEIR BILATERAL RELATIONS WITH THAT OF THE UNITED STATES GOVERNMENT.

CONCOMITANTLY, WE GOVERNORS HAVE RESERVED THE OPPORTUNITY TO REVIEW THE COMPACT AND STUDY THE POSSIBLE ADVERSE EFFECTS IT

MAY HAVE ON THE AMERICAN ISLANDS OF THE PACIFIC.

THE COUNCIL HAS PLEDGED TO MAKE A FULL ASSESSMENT ON THE COMPACT AND WILL THOROUGHLY DISCUSS THE ISSUES WHICH MAY ARISE SHOULD THE COMPACT BE RATIFIED. THE COUNCIL WILL IDENTIFY THE POTENTIAL ISSUES AND WILL MAKE APPROPRIATE SUGGESTIONS AND RECOMMENDATIONS TO THIS COMMITTEE IMMEDIATELY UPON THE REVIEW AND DELIBERATION OF THE COMPACT RELATIVE TO THE PACIFIC AMERICAN ISLANDS.

I STATE ALL THIS NOW ON BEHALF OF THE PEOPLE OF GUAM SO THAT WHEN OUR COMMONWEALTH ACT COMES BEFORE THE U.S. CONGRESS FOR APPROVAL, YOU WILL APPRECIATE OUR HOPES AND ASPIRATIONS FOR COOPERATION WITH OUR NEIGHBORS.

WE ALSO HOPE FOR THE SUPPORT AND UNDERSTANDING OF OUR FELLOW PACIFIC ISLANDERS, JUST AS THEY NOW RECEIVE GUAM'S FULL ENDORSEMENT OF THEIR SELF-DETERMINATION THROUGH THE COMPACT OF FREE ASSOCIATION.

IN CONCLUSION, WE ON GUAM BELIEVE THE COMPACT CONSTITUTES A MAJOR STEP FORWARD FOR ALL THE PEOPLE OF THE WESTERN PACIFIC. WE URGE THE CONGRESS TO APPROVE THE COMPACT AND WE PLEDGE TO COOPERATE FULLY WITH OUR ISLAND BROTHERS AND SISTERS AS THEY TAKE CONTROL OF THEIR OWN DESTINIES.

FOR GUAM, AS WELL AS FOR OUR FELLOW ISLANDS IN MICRONESIA, THE COMPACT IS A PROLOGUE TO A BRIGHTER FUTURE FOR ALL OF US.

HONORABLE FOFO I.F. SUNIA
before
PUBLIC LANDS SUBCOMMITTEE
MARCH 7, 1985

COMPACT OF FREE ASSOCIATION

THANK YOU, MR. CHAIRMAN. I AM PLEASED TO GIVE MY OPENING STATEMENT TODAY AS A MEMBER OF THE SUBCOMMITTEE ON PUBLIC LANDS. THE ISSUE BEFORE US THIS MORNING IS OF THE UTMOST IMPORTANCE TO THE UNITED STATES NATIONALS AND CITIZENS OF OUR COUNTRY'S FLAG TERRITORIES, THAT IS, THE IMPACT OF THE COMPACT OF FREE ASSOCIATION ON OUR FLAG TERRITORIES, SPECIFICALLY AMERICAN SAMOA, THE VIRGIN ISLANDS, GUAM AND THE COMMONWEALTHS OF THE NORTHERN MARIANA ISLANDS AND PUERTO RICO.

AS THE MEMBER OF CONGRESS FROM AN ISLAND CONSTITUENCY IN THE PACIFIC, I AM HAPPY THAT MY CONFRERES AND CONSOEURS ARE SOON TO EMBARK ON A NEW, IMPROVED RELATIONSHIP OF THEIR CHOOSING WITH THE UNITED STATES. I THOROUGHLY APPROVE OF THE STATUS ON WHICH THE FEDERATED STATES OF MICRONESIA AND THE MARSHALL ISLANDS WILL SOON ENTER. THIS IS WHAT THE VOTERS OF THE FSM AND THE MARSHALLS HAVE CLEARLY DEMONSTRATED THEY WANT FOR THEIR FUTURE. ALL WHO SUPPORT THE SELF-DETERMINATION OF EMERGING GOVERNMENTS AND THEIR PEOPLES SHOULD ENTHUSIASTICALLY APPLAUD THE PURPOSE AND INTENT OF THE COMPACT. I DO.

WHILE IT GLADDENS ME THAT THE FSM AND THE MARSHALLS HAVE STRIVEN TO ACHIEVE FREE ASSOCIATION WITH THE UNITED STATES, AS THE MEMBER OF CONGRESS FROM A FULL-FLEDGED FLAG TERRITORY, I MUST

MENTION MY APPREHENSION AT THE LACK OF SIMILAR TREATMENT FOR MY CONSTITUENTS AND THOSE OF MY COLLEAGUES FROM PUERTO RICO, THE VIRGIN ISLANDS AND GUAM AND FOR THE RESIDENTS OF THE NORTHERN MARIANAS. I DO NOT BEGRUDGE OR DESIRE TO CHANGE AT ALL THE BENEFITS THAT THE FSM AND THE MARSHALLS WILL RECEIVE UNDER THE COMPACT. THESE FORMS OF ASSISTANCE ARE GOOD, AND, AS THEY SHOW THE UNEQUIVOCALLY EXPRESSED WISH OF THE PEOPLES INVOLVED, I DO NOT OPPOSE THEM *PER SE*. HOWEVER, I DO NOT WANT THESE ADVANCES FOR THE FSM AND THE MARSHALLS TO ERRODE THE ACHIEVEMENTS OF THE *BONA FIDE* UNITED STATES FLAG TERRITORIES, WHICH HAVE BELONGED TO OUR COUNTRY FOR OVER EIGHTY-SIX YEARS IN THE CASE OF GUAM AND PUERTO RICO AND NEARLY EIGHTY-FIVE YEARS IN THE CASE OF MY OWN TERRITORY. WE OF THE UNITED STATES FLAG TERRITORIES DO NOT COVET WHAT OTHERS HAVE, BUT WE DO RESPECTFULLY WANT TREATMENT AT LEAST EQUAL TO WHAT THOSE NOT OF THE AMERICAN FAMILY WILL RECEIVE.

I WOULD LIKE TO MAKE PARTICULAR POINTS ABOUT FIVE AREAS OF THE COMPACT: ENVIRONMENTAL PROTECTION, PROGRAM ASSISTANCE, GRANT ASSISTANCE, TRADE AND TAXATION. I WILL FIRST DEAL WITH ENVIRONMENTAL PROTECTION. UNDER SECTION 161 OF THE COMPACT THE MARSHALLS AND THE FSM "SHALL DEVELOP STANDARDS AND PROCEDURES TO PROTECT THEIR ENVIRONMENTS." ALTHOUGH THAT SECTION ADDS THE PROVISO THAT THESE GOVERNMENTS SHALL DEVELOP STANDARDS "SUBSTANTIVELY SIMILAR" TO THOSE IN THE ENDANGERED SPECIES ACT OF 1973, THE CLEAN WATER ACT AND THE OCEAN DUMPING ACT, WHICH APPLY TO AMERICAN SAMOA AND BY WHICH ONE MAY HOLD THE RESIDENTS OF MY TERRITORY LIABLE, THE COMPACT ALLOWS ENOUGH AMBIGUITY TO PERMIT A LESS STRINGENT APPLICATION OF

ENVIRONMENTAL PROTECTION IN THE FSM AND THE MARSHALLS THAN IN UNITED STATES TERRITORY. HERE THESE NEW ASSOCIATED STATES REAP THE BENEFITS OF BEING ALIEN TERRITORY, YET SECTION 162 OF THE COMPACT TREATS THE MARSHALLS AND THE FSM AS IF THEY WERE UNITED STATES CITIZENS WHEN THEY BRING CIVIL SUIT AGAINST THE UNITED STATES FOR THE LATTER'S VIOLATIONS OF ENVIRONMENTAL PROTECTION.

SECOND, IN PROGRAM ASSISTANCE THE MARSHALLS AND THE FSM WILL RECEIVE UNDER SECTION 221 WITHOUT COMPENSATION AND AT THE SAME LEVEL AS IN THE LAST YEAR OF THE TRUST TERRITORY THESE FEDERAL SERVICES AND PROGRAMS: WEATHER SERVICE, THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), THE FEDERAL AVIATION ADMINISTRATION AND THE UNITED STATES POSTAL SERVICE. ON THIS FOURTH ITEM I REFER YOUR ATTENTION, MR. CHAIRMAN, AND THAT OF MY COLLEAGUES ON THIS SUBCOMMITTEE TO ARTICLE IV, SECTION 12, OF THE FEDERAL PROGRAMS AND SERVICES AGREEMENT CONCLUDED PURSUANT TO ARTICLE II OF TITLE II AND SECTION 232 OF THE COMPACT OF FREE ASSOCIATION (OCTOBER 1, 1982). ADDITIONALLY, THE UNITED STATES WILL GIVE THE MARSHALLS AND THE FSM TEN MILLION DOLLARS ($10,000,000) FOR POSTAL SERVICES, WEATHER SERVICE, CIVIL-AVIATION SAFETY SERVICE, FEMA AND EDUCATION AND HEALTH-CARE SERVICES, ALL UNDER SECTION 232 OF THE COMPACT. SECTION 221 OBLIGES THE UNITED STATES TO MAKE AVAILABLE TO THE MARSHALLS AND THE FSM SUCH ALTERNATE ENERGY DEVELOPMENT PROJECTS, STUDIES AND CONSERVATION MEASURES AS APPLY TO THE TRUST TERRITORY AT ITS TERMINATION. ALSO, CITIZENS OF THE MARSHALLS AND THE FSM WHO ARE RECEIVING FROM THE UNITED STATES FINANCIAL AID FOR POST-SECONDARY EDUCATION AT THE TERMINATION OF THE TRUST TERRITORY WILL CONTINUE

TO RECEIVE UNDER SECTION 223 SUCH AID TO COMPLETE THEIR EDUCATION TO A MAXIMUM OF FOUR YEARS AFTER THE EFFECTIVE DATE OF THE COMPACT. THESE ARE EXCELLENT PROVISIONS FOR THE MARSHALLS AND THE FSM; I AM GLAD THAT THEIR CITIZENS UNDER FREE ASSOCIATION WILL BE ABLE TO ENJOY THEM. WILL MY CONSTITUENTS BE AS LUCKY? CAN I ASSURE THE RESIDENTS OF MY TERRITORY, PROUD TO REMAIN WITHIN THE AMERICAN FAMILY, THAT OUR COUNTRY WILL NOT TREAT THEM WORSE THAN THOSE WHO ARE LEAVING THE FAMILY?

THIRD, IN GRANT ASSISTANCE, THE UNITED STATES UNDER SECTION 211 OF THE COMPACT WILL PROVIDE TO THE MARSHALLS, WHICH HAD A POPULATION OF 30,873 AT THE LAST DECENNIAL CENSUS, THE FOLLOWING AMOUNTS: TWENTY-SIX MILLION DOLLARS ($26,000,000) PER ANNUM FOR FIVE YEARS BEGINNING ON THE EFFECTIVE DATE OF THE COMPACT; TWENTY-TWO MILLION, ONE HUNDRED THOUSAND DOLLARS ($22,100,000) PER ANNUM FOR THE NEXT FIVE YEARS; AND NINETEEN MILLION, ONE HUNDRED THOUSAND DOLLARS ($19,100,000) PER ANNUM FOR THE NEXT FIVE YEARS; AND TO THE FSM, WHICH HAD A POPULATION OF 73,160 AT THE LAST DECENNIAL CENSUS, THE FOLLOWING AMOUNTS: SIXTY MILLION DOLLARS ($60,000,000) PER ANNUM FOR FIVE YEARS BEGINNING ON THE EFFECTIVE DATE OF THE COMPACT; FIFTY-ONE MILLION DOLLARS ($51,000,000) FOR THE NEXT FIVE YEARS; AND FORTY MILLION DOLLARS ($40,000,000) FOR THE NEXT FIVE YEARS. ALL THAT THE FSM AND THE MARSHALLS MUST PROVIDE IN ORDER TO GET ONE HUNDRED FIFTY-ONE MILLION DOLLARS ($151,000,000) AND SIXTY-SEVEN MILLION, TWO HUNDRED THOUSAND DOLLARS ($67,200,000) RESPECTIVELY IS TO DEDICATE NO LESS THAN FORTY PER CENT OF THESE AMOUNTS TO THEIR ECONOMIC DEVELOPMENT PLANS, TO WHICH THE UNITED STATES WILL HAVE CONCURRED.

UNDER SECTION 214, FOR FOURTEEN YEARS BEGINNING ON THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE OF THE COMPACT, THE UNITED STATES WILL PROVIDE TWO MILLION DOLLARS ($2,000,000) PER ANNUM TO THE MARSHALLS AND THREE MILLION DOLLARS ($3,000,000) PER ANNUM TO THE FSM FOR ENERGY PRODUCTION ON A CURRENT GRANT BASIS. FOR COMMUNICATIONS SYSTEMS THE UNITED STATES WILL PROVIDE, UNDER SECTION 215(a) OF THE COMPACT, ON A GRANT BASIS FOR FIFTEEN YEARS, BEGINNING WITH THE EFFECTIVE DATE OF THE COMPACT, THREE HUNDRED THOUSAND DOLLARS ($300,000) PER ANNUM TO THE MARSHALLS AND SIX HUNDRED THOUSAND DOLLARS ($600,000) PER ANNUM TO THE FSM. NO SIMILAR BENEFITS ACCRUE TO THE FLAG TERRITORIES.

THE UNITED STATES WILL PROVIDE THE FOLLOWING AMOUNTS ON A CURRENT-ACCOUNT GRANT BASIS FOR FIFTEEN YEARS COMMENCING ON THE EFFECTIVE DATE OF THE COMPACT: EIGHT HUNDRED NINETY THOUSAND DOLLARS ($890,000) PER ANNUM FOR THE SURVEILLANCE AND ENFORCEMENT BY THE FSM AND THE MARSHALLS OF THEIR MARITIME ZONES; ONE MILLION, SEVEN HUNDRED NINETY-ONE THOUSAND DOLLARS ($1,791,000) PER ANNUM FOR HEALTH PROGRAMS IN THE FSM AND THE MARSHALLS; AND TWO MILLION, SIX HUNDRED EIGHTY-SEVEN THOUSAND DOLLARS ($2,687,000) PER ANNUM FOR FINANCIAL AID TO SUPPORT THE POST-SECONDARY EDUCATION OF CITIZENS OF THE FSM AND THE MARSHALLS ATTENDING AMERICAN-ACCREDITED POST-SECONDARY INSTITUTIONS IN THE UNITED STATES, ITS INSULAR POSSESSIONS, THE MARSHALLS OR THE FSM SO LONG AS THE AWARD OF FINANCIAL AID ADVANCES THE ECONOMIC DEVELOPMENT PLANS OF THE FSM AND THE MARSHALLS TO WHICH THE UNITED STATES HAS CONCURRED. ALL THESE BENEFITS APPEAR UNDER SECTION 216(a). KNOWING THAT THE REAGAN

ADMINISTRATION HAS PLEDGED TO CUT BACK SEVERELY ANY FINANCIAL SUPPORT TO THE ONE POST-SECONDARY INSTITUTION IN MY TERRITORY, I MUST ADMIT THAT I ENVY THESE EDUCATIONAL GRANTS TO THE NEW FREELY ASSOCIATED STATES. IN ADDITION, IN CONNECTION WITH THE FSM'S AND THE MARSHALLS' SURVEILLANCE AND ENFORCEMENT OF THEIR MARITIME ZONES, SECTION 216(b) OF THE COMPACT PROVIDES ONE MILLION, THREE HUNDRED THIRTY-THREE THOUSAND DOLLARS ($1,333,000) TO THESE GOVERNMENTS JUST TO BEGIN THIS WORK. AS I UNDERSTAND, NO SUCH AMOUNTS ARE AVAILABLE FOR THESE PURPOSES IN MY TERRITORY, OR MR. DE LUGO'S, OR MR. BLAZ'S OR MR. FUSTER'S.

UNLESS THERE IS A PROVISION TO THE CONTRARY, SECTION 217 PROVIDES THAT THE AMOUNTS I HAVE MENTIONED FOR ECONOMIC DEVELOPMENT, ENERGY PRODUCTION AND COMMUNICATIONS SYSTEMS WILL BE ADJUSTED IN EACH YEAR BY THAT PER CENT WHICH EQUALS TWO-THIRDS OF THE PERCENTAGE CHANGE IN THE UNITED STATES GROSS-NATIONAL-PRODUCT IMPLICIT PRICE DEFLATOR OR BY SEVEN PER CENT, WHICHEVER IS LESS IN ANY ONE YEAR, WITH THE BEGINNING OF FISCAL YEAR 1981 AS THE BASE. SECTION 218 OF THE COMPACT ALLOWS THAT, IF IN ANY YEAR THE FUNDS FROM THE UNITED STATES FOR THAT YEAR UNDER ANY SECTION OF GRANT ASSISTANCE ARE NOT COMPLETELY OBLIGATED BY THE FSM AND THE MARSHALLS, THE UNOBLIGATED BALANCES WILL REMAIN AVAILABLE IN ADDITION TO THE FUNDS THE UNITED STATES WILL PROVIDE IN SUBSEQUENT YEARS. I AM SURE THAT MY COLLEAGUES BOTH STATESIDE AND FROM THE OTHER FLAG TERRITORIES WOULD BE OVERJOYED TO ANNOUNCE TO THEIR CONSTITUENTS THAT THEY HAD SECURED FOR THEIR DISTRICTS THE BENEFITS OF THESE TWO SECTIONS ALONE. ALSO, ALL FUNDS THAT THE UNITED STATES HAD PREVIOUSLY APPROPRIATED

TO THE TRUST TERRITORY WHICH ARE UNOBLIGATED BY THE TRUST TERRITORY AS OF THE EFFECTIVE DATE OF THE COMPACT ACCRUE UNDER SECTION 219 TO THE MARSHALLS AND THE FSM FOR THE PURPOSES FOR WHICH THE UNITED STATES HAD ORIGINALLY APPROPRIATED SUCH FUNDS.

THE FOURTH AREA IS MOST SIGNIFICANT, TRADE. UNDER ARTICLE IV OF THE COMPACT, THE MARSHALLS AND THE FSM WILL BE TREATED AS IF THEY WERE INSULAR POSSESSIONS OF THE UNITED STATES WITHIN THE MEANING OF HEADNOTE 3(a) OF THE TARIFF SCHEDULES FOR THE PURPOSES OF ASSESSING DUTIES ON PRODUCTS IMPORTED INTO THE CUSTOMS TERRITORY OF THE UNITED STATES. ALL THE EXCEPTIONS, VALUATION PROCEDURES AND PROVISIONS OF HEADNOTE 3(a) WILL APPLY TO THE FSM AND THE MARSHALLS. FULLY ALIEN LAND, THE FSM AND THE MARSHALLS WILL ENJOY ALL THE PRIVILEGES OF AMERICAN FLAG TERRITORIES, YET WITHOUT THE WATCHFULNESS OF THE UNITED STATES DEPARTMENT OF COMMERCE. THE FSM AND THE MARSHALLS ALONE WILL DETERMINE WHAT WILL BE THE MINIMUM WAGE FOR ANY SEGMENT OF THEIR WORK FORCE. AND, REFERRING BACK TO MY POINT ON ENVIRONMENTAL PROTECTION, I EMPHASIZE THAT THEY WILL STRUCTURE THEIR ENVIRONMENTAL LAWS ETC. WHAT PROTECTION WILL THE UNITED STATES OFFER US, ITS FLAG DEPENDENCIES, IF LOWER WAGES AND HEADNOTE 3(a) INDUCE COMPANIES, INDUSTRIES AND BUSINESSES NOW RESIDENT IN OUR TERRITORIES TO MOVE TO THE FSM AND THE MARSHALLS AND BEREAVE US OF OUR MAIN SOURCE OF INCOME, THOUSANDS UPON THOUSANDS OF JOBS AND PRIMARY EMPLOYMENT FOR OUR CONSTITUENTS?

THE FIFTH AND LAST AREA WITH WHICH I WILL DEAL IS THAT OF TAXATION, OF PRIME SIGNIFICANCE TO THE UNITED STATES FLAG TERRITORIES. UNDER SECTION 255 OF THE COMPACT, THOSE PROVISIONS OF

THE UNITED STATES INTERNAL REVENUE CODE (IRC) WHICH APPLIED TO UNITED STATES POSSESSION ON JANUARY 1, 1980, SHALL CONTINUE TO APPLY TO THE MARSHALLS AND THE FSM. IF THE UNITED STATES GOVERNMENT HAS AMENDED, MODIFIED OR REPEALED THESE 1980 PROVISIONS, THEY WILL CONTINUE IN EFFECT FOR THE FSM AND THE MARSHALLS FOR TWO YEARS, DURING WHICH TIME THE UNITED STATES AND THE MARSHALLS AND THE FSM WILL NEGOTIATE AN AGREEMENT TO PROVIDE BENEFITS SUBSTANTIVELY EQUIVALENT TO THOSE WHICH OBTAINED UNDER SUCH PROVISIONS. THIS MEANS THAT THE FAVORABLE 1980 POSSESSION TAX CREDIT OF SECTION 936 OF THE IRC, WHICH WILL NO LONGER APPLY TO AMERICAN SAMOA AND THE OTHER FLAG TERRITORIES, WILL REMAIN INTACT TO BENEFIT BUSINESSES IN THE NEW ASSOCIATED STATES. THIS CAN DO NOTHING BUT HARM TO THE UNITED STATES FLAG TERRITORIES.

I DO NOT WANT YOU, MR. CHAIRMAN, OR MY COLLEAGUES ON THIS SUBCOMMITTEE TO THINK THAT I OPPOSE THE TERMS OF THE COMPACT PER SE, FOR I DO NOT. AT THE SAME TIME, I MUST SPEAK OUT ON BEHALF OF MY CONSTITUTENTS. IF ONE HUNDRED FOUR THOUSAND, THIRTY-THREE (104,033) NON-AMERICANS IN THE FSM AND THE MARSHALLS WILL DESERVE ALL THESE BENEFITS, THEN THE THREE MILLION, FOUR HUNDRED THIRTY-SEVEN THOUSAND, SEVEN HUNDRED SEVENTY-ONE (3,437,771) FULL-FLEDGED AMERICANS IN THE NORTHERN MARIANAS, AMERICAN SAMOA, PUERTO RICO, GUAM AND THE VIRGIN ISLANDS WILL MERIT NOTHING LESS.

STATEMENT OF HONORABLE DON YOUNG
RANKING MINORITY MEMBER, COMMITTEE ON INTERIOR & INSULAR AFFRS.
MARCH 7, 1985

Mr. Chairman & Members of the Committee:

I would like to congratulate my friend, Mr. Sunia, on an excellent statement concerning the Compact of Free Association's impact upon our friends, the U.S. flag territories. His detailed account of the benefits this document gives those who are leaving the U.S. family leaves me wondering what signal it sends to those territories who desire a relatively closer relationship with the U.S. I am beginning to think that Alaska might want to consider freely associating with the U.S., especially since it appears that these newly-created states will be able to pick and choose which regulations and federal actions they wish to be protected by , and which ones they want to be protected from. Additionally, it occurs to me that we could use $3 billion over the next 15 years to develop our infrastructure, which presently includes a road system that has less miles of paved roads than the District of Columbia.

But Alaska is a state, and as such, cannot make such a decision. However, to my friend from American Samoa, I can understand why this package deal begins to look attractive. Yesterday the Full Committee made its FY86 budget recommendations. Because of the Compact, the Trust Territories received a 360% increase in funding. At the same time, we asked members of our own family to suffer with the rest of us by assuming a $10 million cut. What gives?

I intend to take a much closer look at this document in the future, because of the signal it sends to our friends, the flag territories. I want Mr. Sunia, Mr. DeLugo, Mr. Fuster, and my good friend from Guam, Mr. Blaz, to know that I will not be able to lend my support to this Compact if I conclude that the Trust Territories will receive better treatment than our friends in the U.S. family.

JAIME B. FUSTER
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COMMITTEES
BANKING, FINANCE AND URBAN AFFAIRS
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HOUSING AND COMMUNITY DEVELOPMENT
INTERNATIONAL FINANCE TRADE AND MONETARY POLICY
GENERAL OVERSIGHT AND RENEGOTIATION

INTERIOR AND INSULAR AFFAIRS
SUBCOMMITTEES:
PUBLIC LANDS
NATIONAL PARKS AND RECREATION
MINING AND NATURAL RESOURCES

March 5, 1985

Hon. John F. Seiberling
Chairman
Subcommittee on Public Lands
Committee on Interior and
Insular Affairs
House of Representatives
Washington, D. C. 20515

Dear Mr. Seiberling:

I appreciate this opportunity to provide you with Puerto Rico's comments on the subject of your subcommittee's March 7, 1985 hearing - the impact of the Compact of Free Association on the United States territories and possessions. I request that this letter be made a part of the record of that hearing.

Essentially, we believe that enactment of the Compact of Free Association between the United States and the Marshall Islands and the Federated States of Micronesia will have no effect on Puerto Rico.

We understand that the Compact of Free Association has been under negotiation for many years and that the peoples of the Marshall Islands and the Federated States of Micronesia have approved it in public plebiscites and through their governmental procedures. Thus, it represents their legitimate aspirations. For this reason, Puerto Rico hopes Congress will act with dispatch so that the Micronesians can secure the relationship they seek with the United States.

Thank you for this opportunity to put forward Puerto Rico's views on this important subject.

Sincerely,

Jaime B Fuster

Jaime B. Fuster
Member of Congress

cc: Hon. M. Udall

SPEAKER CARL T. C. GUTIERREZ'

Remarks Before

Compact Oversight Hearings

March 7, 1985

Congressman Seiberling, members of the Committee, and guests, as Speaker of the Eighteenth Guam Legislature and President of the Assoication of Pacific Island Legislators, it is my honor to submit this testimony in favor of the compacts of free association now being entertained in Congress for the Republic of the Marshall Islands and the Federated States of Micronesia.

As a very close friend of the Federated States of Micronesia, Kosrae, Pohnpei, Truk and Yap, and the Republic of the Marshall Islands, I offer my unreserved support for their compacts of free association with the United States of America. For the greater part of my adult life I have served as a Guam legislator. Throughout that time I have travelled extensively in Micronesia, meeting and living with my contemporaries in the islands. With a singular passion, and in spite of widely divergingcultural backgrounds, their minds have been consumed with achieving political maturity. They have been, in fact, committed to exercizing their right of self-determination.

Although we speak different tongues, and respect different ancestral histories, Guam and the rest of Micronesia have nevertheless shared a common desire--that is, a desire to be free of colonial bonds and to live with pride as self-governing, self-reliant people living with mutual respect among the world's family of free nations.

Although not just mildly jealous of their political advances over the Territory of Guam, I am happy for my brothers in the Republic of the Marshall Islands and the Federated States of Micronesia as they are about to achieve their goal. It has been a long and difficult task for them, but one that they have faced with determination, professionalism and integrity.

I believe I can say that these people are proud of their association with the United States of America. After their parent's sojourn with the Spanish, German and Japanese administrations, these islanders have seen great advances in the social, political and economic development of their islands. Therefore, they have chosen to continue their close association with the United States. But they have also kept their commitment to bring self-respect to their own islands.

As young men and women, they left their ancestral homes along the beautiful beaches of Micronesia to become educated in the United States. Becoming doctors, lawyers, teachers and architects, they returned to their homelands and made a commitment to their parents to bring to their people the dignity of self-government and the benefits of social development, while preserving their unique cultural indentities. I have every faith that they have fulfilled their mission.

I do understand that some concern has been raised over the provisions of freedom of immigration to the United States which is incorporated in the compacts. The people of these areas would be allowed unrestricted access to the U.S. to go to school and to work. Considering that the administration has been negotiating these compacts for many years, I have no doubt that they are aware that a good number of these Micronesians are unemployed or undereducated and will move to Guam, which is a part of America, to seek employment and to become educated. Therefore, it will be necessary for Guam to have sufficient infrastructural development to be able to handle this influx.

This should be only a temporary problem, as the economies of their home islands develop. Keep in mind that islanders are only truly at home in their own homelands, and will ultimately choose to live there among their families.

I would like to mention that I have offered a solution to this problem of unemployment in Micronesia. Last year the American Textile Industry was successful in lobbying with the administration to create "country of origin" regulations and quotas for foreign manufacturers. This is now closing down a $100 billion a year industry in our neighboring asian countries. Unfortunately, these regualtions were also made to apply to Guam. If the country of origin regulations were overcome for Guam, and possibly Micronesia, the development of assembly factories would almost immediately provide 100% employment for all Micronesians. Wouldn't you agree that this is a simple yet effective mechanism for providing econmic develpment for the developing nations of Micronesia--without significant cost to the United States?

To reiterate this point; the approval of the compacts of free association as currently drafted will cause an impact on Guam. Congress should be prepared to fund infrastructural developments to handle an influx of Micronesians moving to Guam.

The other point that I would like to comment on briefly are the U.S. tax benefits being considered in the compacts. Of course, I do believe that the Micronesians, after forty years of association with the United States and particularly in light of the various uses the United States has made of their islands, have earned the economic privileges outlined in the compacts. Nevertheless, I must advise the committee that Guam, as an integral part of America since 1898, fully expects equal if not better treatment from the United States during our own upcoming political status discussions.

In closing, I fully support the approval of the compacts of free association for the Republic of the Marshall Islands and the Federated States of Micronesia. The only problem that I have heard raised is immigration to Guam, and that is one I have every confidence Congress can and will overcome.

STATEMENT OF WILLIAM A. BROWN
Principal Deputy Assistant Secretary of State
East Asia and Pacific Affairs

before the
Subcommittee on Public Lands and National Parks
House of Representativesw

March 7, 1985

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today on behalf of the Department of State to discuss the Compact of Free Association. My statement contains the position of the Administration with respect to the legal status, authority for self-government and international implications of the Compact as compared to the same parameters applied to the United States territories. Further, as you requested in your February 13, 1985 letter to the Chairman of the Micronesia Interagency Group, I will address the manner in which the concerns of and the impact of the Compact on the United States territories were addressed during the political status negotiations with the Trust Territory. I am accompanied today by James D. Berg, a State Department officer.

Before proceeding with my statement, Mr. Chairman, I want to note that President Reagan resubmitted the Compact joint resolution to Congress on February 20 of this year. We in the Administration hope this action will clear the way for your subcommittee to complete the work schedule which you outlined at the last hearing so that the compact can be voted on by the full House in May. As I mentioned last time, the Administration is heartened by the renewed committment of this subcommittee to consider the Compact both carefully and without undue delay and we renew our pledge to cooperate in your efforts.

I believe in previous hearings before this subcommittee, the legal status, authority for self-government and international implications of the Compact of Free Association have been discussed. To recap, the Administration believes that, from the perspective of the Freely Associated States, the most important single element of the Compact is that it recognizes the sovereignty of their peoples and their right to self-determination and self-government. After World War II, the United States deliberately did not assert sovereignty over the former Japanese mandated islands and instead placed these islands in the U.N. trusteeship system, under a Trusteeship Agreement of July 18, 1947 which obliged the United States to prepare the area for self-government or independence.

Thus, at present, and until termination of the Trusteeship Agreement, the Trusteeship Agreement is the sole source of United States authority to administer the area, and to extend United States laws and regulations. The Compact, upon its enactment and execution, will replace the Trusteeship Agreement as the source of United States authority and responsibility in the area. The primary difference between these two instruments is that the Trusteeship Agreement was drafted and executed without the participation of the peoples of the Trust Territory. The Compact, on the other hand, was negotiated with the the TTPI peoples and approved by them.

The source of federal authority and responsibility with respect to the United States territories is not a Trusteeship Agreement or a negotiated Compact, but rather the United States Constitution which, in Article IV, places plenary power in the Congress. Congress, in turn, has delegated certain powers to the Executive Branch and, in some cases, to the local territorial governments through various enactments. These source documents include organic acts in the case of Guam and the Virgin Islands, the treaties of cession and Interior Department orders in the case of American Samoa and the Federal Relations Act in the case of Puerto Rico. In the context of United States practice, each of these territories is self-governing with elected executive and legislative branches and local court jurisdiction. Puerto Rico also has a locally drafted and enforced constitution.

From the standpoint of the international community, in the form of the United Nations, the freely associated states, upon termination of the Trusteeship Agreement, will be self-governing and the United States will have no future reporting requirements with respect to them. Under the Compact, the freely associated states will have full authority to establish their own citizenships, implement and change their own constitutions, elect their own political and governmental leaders, and will exercise full rather than partial responsibility and authority in the management of their affairs - save only in defense and security matters. The United Nations does not consider the United States territories to be self-governing and the United States reports annually United Nations Secretary General on conditions in the territories.

In previous hearings before this subcommittee, Administration witnesses have discussed the manner in which approval and implementation of the Compact will enhance the achievement of United States foreign policy objectives in the Pacific region. In that context, it is important to remember that there are now two United States territories in the Pacific -- Guam and American Samoa -- and, upon termination of the Trusteeship Agreement, there will be a third -- the Northern Mariana Islands. We believe that these territories will benefit by the assumption of self-governing status by the Marshall Islands and the Federated States of Micronesia and by their foreign affairs activities. While the United States territories, like other parts of the United States, look to the Federal Government to carry out the nation's foreign policy, new avenues of participation in regional international activities have been identified for the territories as a result of our experience with the Trust Territory and its transition to a new political status. Guam, for example, enjoys associate membership in the Economic and Social Commission for Asia an the Pacific, an important regional body that operates under the general guidance of the United Nations Economic and Social Council.

The negotiations leading to the Compact of Free Association and its approval by the peoples of the Marshall Islands and the Federated States of Micronesia started in 1971 after the peoples of the Trust Territory, except for the Northern Mariana Islands, turned down offers of territorial status by the United States. During this period of negotiation, the United States negotiators made sustained efforts to consult with the elected and appointed leaders of the United States territories, especially Guam, with respect to the evolution of the Compact and those of its provisions that may impact on the territories. In terms of policy formulation, since 1971, United States negotiating policy has been set by an interagency group which has always included the Interior Department. Interior has brought to that group its invaluable perspective as the agency with administrative responsibility for the Trust Territory as well as its familiarity with the United States territories. Finally, and especially in recent years, the elected chief executives of the future freely associated states have intensified their contacts with the territorial governments. This process is important in that new patterns of cooperation between the freely associated states and the United States Pacific territories are being identified and put into effect.

We believe that the consultation with the territories and awareness of issues important to them has assisted the Trust Territory political status negotiations and has rendered the Compact of Free Association a better document. Because the Compact represents the most recent comprehensive look by the United States at the question of political status, there are bound to be elements of the Compact that will have impacts on the political and international environment in the Pacific. It may well be that the Compact contains approaches to political and economic development challenges which could be of benefit to the United States territories. The Administration believes that we will be in the best position to ascertain these developments in the context of implementation of the Compact. Because, for the United States territories, the question of their relations with the Federal Government is a dynamic consideration, the Administration believes that the Federal Government and the territorial governments will be poised to take advantage of new benefits which the Compact may bring and, if appropriate, incorporate them into the respective federal-territorial relationships. Similarly, the freely associated states will no doubt be interested in taking advantage of successful projects and programs pioneered by the United States territories.

In conclusion, Mr. Chairman, the Administration believes that the enactment and implementation of the Compact of Free Association will give rise to new opportunities for the freely associated states as well as the territories. The Administration is confident that this subcommittee, the full Interior and Insular Affairs Committee and its Senate counterpart, will be in a position, with the territories themselves, to make decisions with respect to the relationship and application of these opportunities to the federal relationship with the United States territories. I would be pleased to respond to any questions you or the members of the subcommittee may have or, if you prefer, to respond in writing for the record of the hearing.

STATEMENT OF JAMES A. KELLY

DEPUTY ASSISTANT SECRETARY OF DEFENSE

(INTERNATIONAL SECURITY AFFAIRS)

FOR EAST ASIA AND PACIFIC AFFAIRS

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND NATIONAL PARKS

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

REGARDING THE

COMPACT OF FREE ASSOCIATION WITH THE MARSHALL ISLANDS AND

THE FEDERATED STATES OF MICRONESIA

MARCH 7, 1985

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

IN DEFENSE DEPARTMENT TESTIMONY BEFORE THIS SUBCOMMITTEE LAST AUGUST, ASSISTANT SECRETARY ARMITAGE CALLED PARTICULAR ATTENTION TO THE GROWING IMPORTANCE OF THE PACIFIC BASIN, AND OF THE SECURITY OF LINES OF COMMUNICATION WHICH PASS THROUGH OR CLOSE TO MICRONESIA. HE ALSO NOTED THAT THE CAPABILITY OF THE SOVIET UNION TO THREATEN THESE LINES OF COMMUNICATION IS GROWING, AND EVENTS SINCE THEN HAVE REEMPHASIZED THE IMPORTANCE OF MICRONESIA TO THE LONG-TERM SECURITY OF THE UNITED STATES. THUS, THE DEPARTMENT OF DEFENSE BELIEVES MORE STRONGLY THAN EVER THAT MICRONESIA'S ROLE IN THE FREE WORLD AND ITS CONTINUING CLOSE FRIENDSHIP WITH THE UNITED STATES MUST BE MAINTAINED. WE AGREE WITH THE PEOPLES OF MICRONESIA THAT THE COMPACT OF FREE ASSOCIATION IS THE BEST WAY TO PRESERVE OUR MUTUAL INTERESTS.

GIVEN THEIR SMALL SIZE AND SCARCE RESOURCES, IT IS NOT POSSIBLE FOR THE GOVERNMENTS OF THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA TO DEVELOP THEIR OWN CAPABILITY TO RESIST EXTERNAL THREATS AND PRESSURES. ACCORDINGLY, THE COMPACT PLEDGES US TO CONTINUE TO DEFEND THE ISLANDS AND THEIR PEOPLES AS WE WOULD THE UNITED STATES AND OUR OWN CITIZENS, AND THUS PROVIDES THE SECURITY NECESSARY FOR THE MICRONESIAN

STATES TO ACHIEVE LASTING POLITICAL STABILITY. THIS IN TURN SHOULD HAVE AN IMPORTANT ECONOMIC BENEFIT, BY MAKING MICRONESIA, LIKE U.S. TERRITORIES, INCREASINGLY ATTRACTIVE FOR INVESTMENT AND DEVELOPMENT.

JUST AS IMPORTANT, THE COMPACT ALSO MEETS THE SECURITY INTERESTS OF THE UNITED STATES. THUS IT FORECLOSES THE AREA TO MILITARY USE BY THIRD COUNTRIES WITHOUT U.S. CONSENT. IN ORDER TO FULFILL OUR DEFENSE RESPONSIBILITIES, THE COMPACT GIVES US THE RIGHT TO CONDUCT NECESSARY MILITARY ACTIVITIES AND OPERATIONS, AND, AFTER CONSULTATION, TO ESTABLISH AND USE MILITARY FACILITIES, AT SITES MUTUALLY AGREED. AT THIS TIME, ONLY ONE SUCH MILITARY INSTALLATION IS NEEDED, ON KWAJALEIN ATOLL; THE COMPACT ESTABLISHES A MUTUALLY BENEFICIAL ARRANGEMENT FOR ITS USE FOR FIFTEEN YEARS, WITH AN OPTION TO EXTEND FOR AN ADDITIONAL FIFTEEN YEARS. AS YOU CAN APPRECIATE, THE KWAJALEIN MISSILE RANGE WILL PLAY AN IMPORTANT ROLE IN THE RESEARCH AND TESTING CONNECTED WITH THE PRESIDENT'S STRATEGIC DEFENSE INITIATIVE.

AS WE REPORTED TO YOU LAST AUGUST, THERE HAVE BEEN SIGNIFICANT IMPROVEMENTS IN CONDITIONS ON EBEYE, AND IN OVERALL CO-OPERATION BETWEEN UNITED STATES AND LOCAL MARSHALLESE AUTHORITIES THERE. THIS HAS PRODUCED AN IMPROVEMENT IN LOCAL ATTITUDES, AS LEADERS ON KWAJALEIN HAVE MOVED OUT ON THEIR OWN INITIATIVE TO IMPROVE LIVING CONDITIONS. ON BEHALF OF THE DEPARTMENT OF DEFENSE, I WOULD LIKE TO ACKNOWLEDGE OUR RESPECT AND APPRECIATION FOR PRESIDENT KABUA, CHIEF SECRETARY OSCAR DEBRUM, SENATOR IMADA KABUA, MAYOR ALVIN JACKLICK AND THE TRADITIONAL KWAJALEIN LEADERS. WE WILL CONTINUE TO WORK WITH THEM THROUGH THE KWAJALEIN ATOLL DEVELOPMENT AUTHORITY AND COMMUNITY RELATIONS COUNCIL, TWO BODIES CHARGED WITH RESPONSIBILITY FOR U.S. RELATIONS WITH MARSHALLESE AUTHORITIES REGARDING KWAJALEIN, ESPECIALLY EBEYE ISLAND. WE WERE PLEASED TO RECEIVE AND ARE CAREFULLY REVIEWING THE COMPREHENSIVE AND DETAILED MARSHALL ISLANDS DEVELOPMENT PLAN.

ALTHOUGH A WIDE MAJORITY OF VOTERS OF PALAU HAVE INDICATED THEIR PREFERENCE FOR A RELATIONSHIP OF FREE ASSOCIATION WITH THE UNITED STATES, THE NUCLEAR PROVISIONS OF THE CONSTITUTION OF PALAU WOULD IMPEDE THE DEFENSE AUTHORITY THAT IS SO BASIC TO THE CONCEPT OF FREE ASSOCIATION. ALTHOUGH WE HAVE NO MILITARY PLANS AT THIS TIME WITH RESPECT TO PALAU, WE NEED TO PRESERVE OUR RIGHTS SHOULD THE NEED ARISE. WE CONTINUE TO SEEK AN AGREEMENT THAT WILL GIVE US THE SAME ABILITY TO DEFEND PALAU THAT WE WILL HAVE WITH RESPECT TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA.

MR. CHAIRMAN, I WOULD NOTE THAT THIS EVIDENCE OF CONTINUING PROGRESS SUGGESTS MORE STRONGLY THAN EVER THAT THE TIME HAS COME TO ENTER A NEW RELATIONSHIP WITH THE GOVERNMENTS AND PEOPLES OF THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA

WHICH WILL SATISFY THEIR OWN ASPIRATIONS WHILE ALSO MEETING BOTH LOCAL AND UNITED STATES DEFENSE REQUIREMENTS. WE IN DEFENSE WELCOME YOUR ASSURANCE OF ITS EARLY CONSIDERATION, AND URGE ITS PROMPT APPROVAL BY THIS SUBCOMMITTEE AND THE CONGRESS.

WITH RESPECT TO THE TOPIC OF TODAY'S HEARING, WE DO NOT ANTICIPATE THAT ANY ADVERSE IMPLICATIONS IN U.S. TERRITORIES OR POSSESSIONS WILL RESULT FROM ENTRY INTO FORCE OF THE COMPACT OF FREE ASSOCIATION. I WILL, HOWEVER, BE PLEASED TO ADDRESS ANY QUESTIONS YOU MAY HAVE IN THIS CONNECTION.

STATEMENT
OF

FROILAN C. TENORIO
RESIDENT REPRESENTATIVE
TO THE UNITED STATES

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

HEARING ON THE

COMPACT OF FREE ASSOCIATION

before the

PUBLIC LANDS SUBCOMMITTEE
HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

March 7, 1985

Mr. Chairman and members of this Subcommittee. Thank you for the opportunity to submit written testimony and appear before you to offer a joint statement on behalf of my office and the Office of the Governor on the impact of the Compact of Free Association upon the Northern Mariana Islands. I congratulate the parties, especially the Federated States of Micronesia and the Republic of the Marshall Islands, for the hard work and perseverance required to conclude the negotiations of this innovative document.

At the outset, Mr. Chairman, the Governor of the Northern Mariana Islands has requested additional time to study the Compact further and offer written comments at a later date. We hope you will honor this request.

This hearing is an indication that progress is being made toward ratification of the Compact. This is significant for the Federated States of Micronesia and the Republic of the Marshall Islands; it is also significant for the Commonwealth.

There are some basic assumptions associated with our resounding adoption of commonwealth status. There are some basic assumptions associated with the resolution of political status for the Trust Territory of the Pacific Islands. It is appropriate to discuss the consequences of these political resolutions in the context of what the United States holds in store for the people of the Northern Mariana Islands upon approval of the Compact of Free Association.

I trust you are aware of the delay in the full implementation of our Covenant that has resulted from the continuing efforts of the parties to conclude the negotiations of this Compact. The political aspirations of our people will not be fulfilled until the United Nations Trusteeship Agreement is terminated, something that supposedly cannot occur without approval of this Compact by the United States. I hope that the members of this Subcommittee understand the great patience that our people have shown during this long wait for progress in these negotiations. I applaud the efforts to approve the Compact as a step forward for the people of the Northern Mariana Islands as well as the people of the two Freely Associated States (FAS).

Compact Effective Date and Termination of Trusteeship Agreement. The single most profound impact of the approval of the Compact of Free Association on the Northern Mariana Islands will be the termination of the Trusteeship Agreement and the full vesting of the rights and privileges accorded to the Northern Mariana Islands in the Covenant. We have anticipated the termination of the Trusteeship Agreement for many years. At this juncture, it is still unclear just when it will occur, and when it does occur, whether our rights and privileges will have been preserved intact or altered by time and political consequence.

The NMI has been awaiting termination of the Trusteeship Agreement for so long that we have become the best example how to avoid the same experience. The Freely Associated States do not have to await termination of the trusteeship to become full fledged political entities. Rather, the Compact provisions may become effective upon "Approval by the Government of the United States in accordance with its constitutional processes." This apparently means that if the termination of the trusteeship is delayed for any reason, the delay will not impact negatively on the people or governments of the Republic of the Marshall Islands or of the Federated States of Micronesia. Their governments may be in place, and the individual rights of their citizens can be vested.

This could have the result of implementing the provisions of the Compact, and so giving birth to the Federated States of Micronesia and the Republic of the Marshall Islands while the Commonwealth of the Northern Mariana Islands continues in its embryonic state. This eventuality would not only be unfair to the people of the Northern Mariana Islands; it would sorely try their political patience. Indeed, some of our people have felt that our Covenant with the United States did not create the commonwealth we expected but instead placed us in a political purgatory, half out of the trusteeship but not yet adopted into the United States political family.

At the time that the Marianas Covenant was approved, the U.S. Government promised that the Trusteeship Agreement would be terminated by 1981. That did not seem too long to wait for full U.S. citizenship and formal establishment of the Commonwealth. Obviously, we are still waiting. Although our people have been patient, there have been serious problems. I believe that the Compact joint resolution is an appropriate vehicle to resolve some of our difficulties on an interim basis.

Citizenship Status. One of the most frequent complaints has been the failure of various federal agencies and officials to acknowledge our citizenship status. Our citizens are commonly treated as aliens by both federal and state authorities, and by private employers. This is so despite several legitimate efforts by the Congress and the Executive branch to resolve these difficulties. The Congress provided for the elimination of many citizenship barriers to NMI citizens by the enactment of U.S. Pub. L. 98-213. President Reagan issued his Proclamation 5207 last year which provided that NMI citizens be treated as U.S. citizens under more that one hundred federal laws. Discrimination against our citizens does persist, however, because our people have no document to show their lawful status under U.S. law.

The NMI Commission on Federal Laws adopted a recommendation that legislation be enacted to provide NMI citizens with a special U.S. passport to prove their right to "enter, reside, and be employed in the United States." Last year I requested that the Congress enact this measure to see us through the interim period prior to termination. The measure was not enacted, largely due to opposition from the U.S. Department of State which claimed that the right of NMI citizens to entry, residence and employment in the United States was "...not in all respects clearly established." The State Department indicated further that they could not support our proposal because it would cause "uncertainties under international law, in that it recognizes a different citizenship status than that recognized in the Trusteeship Agreement." Yet the Compact immigration provisions do just that.

If I read the Compact provisions correctly, Section 141 would confer these same rights upon citizens of the Freely Associated States on the date of approval of the Compact. It seems only fair that these rights be conferred upon our citizens rather than require them to await termination of the trusteeship. I really don't see how the State Department can rationalize granting greater rights to citizens of the Freely Associated States than to future citizens of the United States.

Transfer of Property. Section 234 of the Compact provides for the conveyance of the property of the United States to the Freely Associated States "...on or before the day preceding the effective date of this Compact..." Again, this provision wisely differs from the provision of Covenant Section 801. Pursuant to that section the right to property owned by the Trust Territory of the Pacific Islands must be transferred to the Commonwealth of the Northern Mariana Islands "...no later than upon the termination of the Trusteeship Agreement..." Naturally, this provision was interpreted in the NMI to mean that the substantial Trust Territory holdings, especially of real property in the NMI, would become the property of our Commonwealth Government no later than 1981.

It seems possible that the Freely Associated States will inherit their portion of federal property before the NMI. I believe that the Northern Mariana Islands have waited long enough and that the Compact joint resolution should be amended to provide for the immediate transfer of all Trust Territory property in the NMI to the Commonwealth Government. I ask this Subcommittee to consider the following amendment to accomplish this purpose for the real property in the NMI:

> All right, title and interest of the Trust Territory of the Pacific Islands in and to real property in the Northern Mariana Islands as defined and described in Section 801 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Pub. L. 94-241, is transferred to the Government of the Northern Mariana Islands.

Law of the Sea. One of the most innovative provisions of the Compact of Free Association is contained in Section 121 (b)(1) and concerns the role of the Freely Associated States in the Law of the Sea. This section recognizes the capacity of the Federated States of Micronesia and the Republic of the Marshall Islands to conduct affairs relating to the law of the sea and marine resources recognized under international law.

In fact, the Federated States of Micronesia has already begun to participate in regional and international efforts to manage and conserve marine resources. Even prior to approval of the Compact, the FSM has been approved for membership in the South Pacific Forum as an observer of the Forum and as a member of both the South Pacific Bureau for Economic Cooperation and the Forum Fisheries Agency. Both FSM and the Marshall Islands have successfully concluded bilateral fishery agreements with distant water fishing nations, including the Japanese.

The Freely Associated States have also assumed a role in the protection of the Pacific Ocean from the threat of radioactive waste dumping. In fact, the Federated States of Micronesia has taken the lead in proposing restrictions on such dumping through the South Pacific Regional Environmental program.

I applaud these efforts and commend the leaders of the Freely Associated States for their efforts to responsibly manage and protect the oceans and marine resources in their areas.

Sadly, our Commonwealth Covenant is silent on the subject of ocean jurisdiction and the law of the sea, and our government has been prevented from assuming responsibility in these areas by the Federal Government. The United States has asserted jurisdiction over the 200 mile zone surrounding the Northern Mariana Islands under the Magnuson Fisheries Conservation and Management Act and the President's proclamation of an exclusive economic zone.

I believe that these claims constitute a premature assertion of sovereignty over the Northern Mariana Islands by the United States. I do not believe that the issue was resolved in our political status negotiations with the United States because neither the Magnuson Act fisheries zone nor the exclusive economic zone was in existence at the time our Covenant was approved. Effective management and protection of the Pacific Ocean for the future must involve regional and international cooperation. I believe that participation by the Northern Mariana Islands in such efforts, along with the Freely Associated States and other U.S. territories, would be a positive influence and I look forward to the day when we can join the Freely Associated States and the United States in these efforts.

War Claims. I question whether the Compact of Free Association resolves the issue of the adjudicated but unpaid awards of the Micronesian war claims. I am unaware whether these claims would be included under the provisions of Compact Section 174(b), although I hope that they are included. I certainly feel that this old history should be resolved on behalf of all Micronesians prior to conclusion of the trusteeship.

The only obstacle to payment is the requirement that the

Secretary of the Interior certify that the Japanese have contributed their share of goods and services. If the Secretary cannot so certify then I suggest that the Subcommittee amend the Micronesian Claims Act and Pub. L. 95-134 in such a way as to permit immediate payment.

Trust Territory Social Security Prior Service Benefits. The Compact apparently contains no funding for the prior service benefits program of the Trust Territory Social Security Retirement Fund. Absent federal funding I fear that these benefits will lapse unless they are funded by the Commonwealth and the Freely Associated States. I know that the NMI is having enough difficulty funding our own retirement without assuming the additional burden of providing benefits for former employees of the United States Navy and the Trust Territory of the Pacific Islands. I hope that this Subcommittee will provide a mechanism for the continuation of these benefits during this consideration of the Compact joint resolution.

Trade Provisions. Article IV of the Compact confers certain trade benefits upon the Freely Associated States, including duty free treatment under General Headnote 3(a). Our recent experience with exports to the United States under the headnote makes us concerned that these provisions could give FAS an unfair competitive advantage in this area.

Recent Treasury Department regulations severely restricted the use of Headnote 3(a) in the textile industries in the territories and insular possessions. I am not certain whether such regulations would apply to FAS. If they would not then the territories would be unable to compete with the Compact states in this important area.

Immigration. Compact Section 141 provides that citizens of FAS, including naturalized citizens of those states, may enter, establish residence and be employed in the United States and its territories and possessions. This provision seems in conflict with Section 503(a) of the Covenant. While we have always welcomed our friends from the neighboring islands I feel that the NMI Government should be consulted before the U.S. Congress changes this provision of our Covenant. Of special concern is the provision which allows naturalized FAS citizens to enter the NMI after only 5 years residence.

Taxation. Compact Sections 253 and 254 raise a potential issue concerning how citizens of the FAS who are employed in the Northern Mariana Islands will be taxed. Section 254 clearly relieves certain residents of the FAS from paying federal taxes. We need clarification whether this provision would relieve such persons from taxation pursuant to Article VI of the Covenant.

Air Craft Landing Rights. We are puzzled by the provisions in the Subsidiary Agreements, Article IX, Section 5(c), of the Federal Programs & Services Agreement and request that this Subcommittee help us ascertain the exact nature of this agreement and its impact on the Northern Mariana Islands.

Again, I appreciate the opportunity to offer these comments to your Subcommittee. As I have said I certainly feel that the Compact provisions deserve much more study on the part of the Commonwealth of the Northern Mariana Islands.

EXECUTIVE CHAMBERS
HONOLULU

GEORGE R. ARIYOSHI
GOVERNOR

March 12, 1985

The Honorable John F. Seiberling
Chairman, House Interior Subcommittee on Public Lands
U.S. House of Representatives
Room 812, House Annex 1
Washington, D.C. 20515

Dear Congressman Seiberling:

I am aware that the House Interior Subcommittee on Public Lands is holding hearings on the Compact of Free Association and would appreciate the opportunity to present the following testimony on the effects of the compact on Hawaii:

--Hawaii supports the approval of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands. There is a need to resolve this long-standing issue and to determine the status of the Micronesian nations in relation to the United States. The compact provides for progress in meeting the Micronesian peoples' need for self-determination and is a vital link in the growth of these islands.

--We are looking into the potential impact of the Compact of Free Association on programs and services in Hawaii. Potential changes in the nature of government services and the method of delivery also need to be examined.

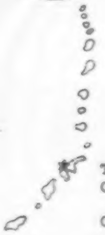
We would like to submit further testimony as our study proceeds.

With warm personal regards, I remain,

Yours very truly,

George R. Ariyoshi

Commonwealth of the Northern Mariana Islands
Office of the Governor
Saipan, Mariana Islands 96950



The Honorable John F. Seiberling
Chairman, Subcommittee on Public
Lands and National Parks
Committee on Interior and
Insular Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Seiberling:

We would like to thank you for giving us the opportunity to provide comments on the Compact of Free Association which, if approved, will establish a new relationship between the United States of America, the Marshall Islands and the Federated States of Micronesia. While we consider most of the provisions of the Compact of Free Association and the Subsidiary Agreements to be of interest only to the parties involved, several areas are of some concern to the Commonwealth of the Northern Mariana Islands and we feel they deserve clarification.

Although the text is not free of doubt, the Preamble appears to effect a termination of the Trusteeship Agreement with respect to the Marshall Islands and the Federated States and the United States. If, in point of law, such de facto and partial termination can be validly effectuated, the desirability of such a course is a matter between the Compact signatories.

However, since execution of our Covenant with the United States, several issues of vital concern to our well being have arisen between the Northern Marianas and the United States. These matters, which include such issues as Internal Revenue Code alternatives, control of local fishery and sea bed assets, War Claims and third country foreign aid, remain unresolved. In addition, discussions between our government and the President's Special Representative concerning future multi-year financial assistance to the Northern Marianas under the Covenant are currently underway. We support termination of the Trusteeship Agreement with respect to the Northern Marianas upon a mutually satisfactory resolution of these issues, and Congressional approval of a succeeding multi-year period of Covenant financial assistance.

Title I, Article IV, Section 141 provides that qualified citizens of the Marshall Islands and the Federated States of Micronesia may enter, reside, be employed, attend school or remain as visitors in the United States. Presumably, the rights conferred by this section extend to the Commonwealth of the Northern Mariana Islands, as the United States is empowered to authorize territories or possessions to enact laws or promulgate regulations of a non-discriminatory nature for citizens of the Marshall Islands and the Federated States of Micronesia who desire to establish habitual residence. This provision may conflict with Section 503(a) of the Covenant which, with minor exceptions, makes U.S. immigration and naturalization laws inapplicable in the Commonwealth of the Northern Mariana Islands. Upon termination, the United States is empowered to enact laws making all or a portion of U.S. immigration and naturalization laws applicable. We do not foresee an immediate problem, as our current laws allow citizens of the Trust Territory of the Pacific Islands to reside in the Northern Mariana Islands and we are confident that we can and will enact new laws conferring substantially the same rights to citizens of the Marshalls and the Federated States of Micronesia. However, until the Trusteeship Agreement is terminated, the United States cannot enact laws affecting immigration into the Northern Mariana Islands. In addition, we are somewhat concerned regarding whether Section 143 would allow our people to reside in the Marshalls or Federated States of Micronesia, as we are not presently U.S. citizens or nationals. Hopefully, we could resolve these issues with representatives of the respective governments.

We have also noted the excellent tax relationship that is proposed between the United States and the FSM/Marshall Islands. We fully endorse it, and we believe it will provide them with the authority and flexibility necessary to promote their economic development.

The proposed tax relationship is similar to the relationship preliminarily agreed to during our Covenant negotiations with the United States. However, subsequent Covenant negotiations changed the NMI's tax relationship with the United States to one based on the mirror image Internal Revenue Code. This was a mistake. (The studies conducted during the last 7 years have established the harmful effects the mirror image IRC will have on our economic development.) Moreover, the mirror image IRC is an extremely inefficient and inequitable system of taxation when applied to the NMI. Our point is underscored in much of our correspondence with the U.S. Congress over the last several years and in a 1984 staff study by the Northern Mariana Islands Commission on Federal Laws concerning issues raised by the application of the mirror image IRC to the NMI.

Therefore, it is our hope that the Committee will look favorably upon proposals to change the tax relationship between the NMI and the United States to a relationship more similar to that proposed in the Compacts for the FSM/Marshall Islands. Such a change would substantially enhance our government's ability to promote future NMI economic development, and it would remove a major difficulty that has arisen in our relationship with the United States. Moreover, we see no valid policy reasons for not extending this economic development tool to those members of the American political family who request it. The proposed new tax relationship does not affect U.S. foreign affairs or defense responsibilities, two fundamental areas of difference between a freely associated state and a commonwealth of the United States. We look forward to exploring this extremely significant matter further with you in the coming months.

The Subsidiary Agreement dealing with civil aviation (Article IX) establishes a new classification of foreign air carrier to be known as a "Free Associated State Air Carrier". Further, the Civil Aeronautics Board or its successor is empowered to authorize such carriers to carry local traffic between Guam, Honolulu and the Commonwealth, as well as within the Commonwealth of the Northern Mariana Islands. Past experience dictates that air service within the Commonwealth and between Saipan, Tinian, Rota and Guam suffers when more than one carrier provides service. Since 1978, two carriers have ceased providing service because the market is not large enough to operate profitably when served by two carriers. De-regulation has not been in our best interest and we have taken the position that our government should play a greater role in decisions to award routes. The provisions of the Subsidiary Agreement appear to preclude our participation in the decision making process as regards Freely Associated State Air Carriers who desire to provide service to the Commonwealth.

Another matter of some concern to us involves a provision of the Covenant which provides that the United States will have complete responsibility and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands. The governments of the Marshall Islands and the Federated States of Micronesia are given broad powers regarding foreign affairs, which we feel is most equitable and appropriate given the nature of their political relationship with the United States. However, it appears rather incongruous to us that our Covenant implies that we cannot deal directly with our fellow Micronesians but must use the Department of State or the Department of Interior as a conduit. If responsibility to liaison with the new governments is transferred to the Department of State and responsibility over flag territories remains with Department of Interior, Micronesia will, in our opinion, be further fragmented and divided. We intend to discuss this matter with representatives of the United States and to enter into an agreement which would allow us to work closely with the new governments on a one-to-one basis.

We are indeed impressed with the manner in which the United States and the governments of the Marshall Islands and the Federated States of Micronesia have treated fisheries and sea bed resources. Our government has consistently taken the position that marine resources belong to the people of the Northern Mariana Islands and should not be exploited by foreign fishing fleets. Surveillance and enforcement in our exclusive economic zone have been virtually non-existent and we are very pleased with the provisions in the Compact which provide for funding for those activities. Hopefully, the Commonwealth will be afforded similar treatment in the future.

In closing, we would like to again thank you and the members of this Committee for allowing us to comment. The Compact of Free Association is an historic document and represents an important step towards the political, social and economic development of the peoples of the Marshall Islands and the Federated States of Micronesia. On behalf of the people of the Commonwealth of the Northern Mariana Islands, we would like to extend our congratulations and best wishes.

Sincerely,

PEDRO P. TENORIO
Governor

PONCIANO C. RASA
President of the Senate

VICENTE M. SABLAN
Speaker of the House of Representatives

THE PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

March 22, 1985

Honorable John F. Seiberling
Chairman, Subcommittee on Public Lands and
National Parks
Committee on Interior and Insular Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Seiberling:

This letter responds to your request for a point-by-point commentary on the statement delivered by Delegate Fofo Sunia of American Samoa at your Subcommittee's March 7 hearing on the Compact of Free Association. I sincerely appreciate the opportunity to respond to that statement.

Before commenting on the specific points raised in Delegate Sunia's statement, I want to say that we appreciate his affirmation that "I do not begrudge or desire to change at all the benefits that the FSM and the Marshalls will receive under the Compact. These forms of assistance are good, and, as they show the unequivocally expressed wish of the peoples involved, I do not oppose them _per se_." As you know, the peoples of the Trust Territory have always supported the United States territories in their aspirations, particularly in the case of Guam and American Samoa. In the case of the Northern Mariana Islands, the peoples of the other Trust Territory districts, then represented by the Congress of Micronesia, put aside other views and supported the approval by the United States Congress of the Northern Mariana Islands Commonwealth Covenant in 1975.

In his statement, Delegate Sunia highlights five areas of the Compact in the context of the way similar topics are treated in the United States territories. These are: (1) environmental protection, (2) program assistance, (3) grant assistance, (4) trade, and (5) taxation.

1. _Environmental Protection_.

Delegate Sunia states that "the Compact allows enough ambiguity to permit a less stringent application in the FSM and the Marshalls than in United States Territory. Here these new associated states reap the benefits of being alien territory, yet Section 162 of the Compact treats the Marshalls and the FSM as if they were the United States citizens when they bring civil suit against the United States for the latter's violations of environmental protection."

Delegate Sunia is precisely correct when he differentiates between United States territory and the freely associated states. The United States does not extend its laws to non-American areas (which the Trust Territory now is and which the freely associated states will be) except under unique circumstances. Thus, it would be inappropriate for federal law to regulate the environmental activities of the freely associated states. However, since the freely associated states desire to have the United States Government, in its activities there, to be bound by environmental regulations, the Compact provides that environmental standards substantially similar to those contained in United States laws will be mutually agreed by the United States Government and the freely associated state governments and will apply, reciprocally, to the activities of both governments. Thus, to the degree that the freely associated states desire United States compliance with very strict environmental standards, they must be able and willing to comply with the same standards themselves. It is true that the governments of the freely associated states, but not the citizens, would be able to compel judicial review of United States compliance with these mutually agreed standards. Reciprocally, were the freely associated state governments not to comply with the standards, the United States Government would be relieved of its obligation to comply.

This type of arrangement is unique to the Compact but is designed to be consistent with a relationship in which the laws of one nation to not apply in the territory of the other. The situation is wholly differentiable with respect to the United States territories which are within the sovereign jurisdiction of the United States and which receive the benefits of the application of federal law. Delegate Sunia speaks of the benefits of being alien territory but does not elaborate. It seems to the Administration that the greatest benefit in the field of environmental protection is the fact that the environmental protection legislation so painstakingly created and enacted by Congress over so many years is fully applicable, both procedurally and substantively, to the United States territories. The Federal Government, in its activities in these territories, is fully bound to those standards of protection. The freely associated states will not have this level of protection. Further, if anomalous situations occur in the blanket extension of these standards to the unique circumstances prevailing in the territories, ample precedent exists for Congress, in the exercise of its constitutional authority, to provide special treatment or exceptions for the territories. The states of the union do not enjoy that level of flexible response.

Thus, from the standpoint of environmental protection, the Administration believes that the United States territories enjoy a position more beneficial than that which will extend to the freely associated states and more responsive than can apply to the fifty states.

2. Program assistance.

Delegate Sunia notes that under Compact Section 221, the freely associated states will receive the continued services of five federal agencies, the amount of $10 million annually and alternate energy development projects as were in effect upon termination of the Trusteeship Agreement. He mistakenly notes that the $10 million will cover the services of five federal agencies when in fact this amount, which will be authorized by Compact Section 221(b) and which will be divided between the Marshall Islands and the Federated States of Micronesia in amounts of $3 million and $7 million respectively, must be devoted by the freely associated states to the financing of health care and education programs. Delegate Sunia asks whether he can "assure the residents of his territory" that the United States will not treat them worse.

In fact, as has been brought out repeatedly at hearings held by your Subcommittee, the federal services in Compact Section 221(a) and the health-care and education block grants in Section 221(b) are the only federal programs and services that the Compact will authorize upon its effective date. While additional federal programs might be extended by mutual agreement pursuant to Compact Section 224, such extension, for the United States, would require acts of Congress on a program-by-program basis. American Samoa, on the other hand, like the other United States territories, has a full call on the programmatic activities and benefits of the federal government. The five federal services which will extend under the Compact apply fully to American Samoa and have for many years. Rather than receiving a fixed block grant for education and health, American Samoa, like the other territories, is eligible for and participates in the full range of federal education and health programs. And, American Samoa and the other United States territories also are eligible for and, in many cases at their own discretion, can participate in the federal programs created by Congress and administered by all the agencies of the United States Government. Further, Congress has enacted legislation which provides for specialized treatment of the United States territories in terms of the applicability of federal programs, including very creative and beneficial features for grant consolidation, waiver of matching requirements and easing of administrative regulations.

The population of American Samoa is roughly comparable to that of the Marshall Islands. For the past three fiscal years, American Samoa has received an average annual amount in federal program support (not including Interior Department grants) of $12 million. During the same period, under the trusteeship arrangement, the Marshall Islands received an average annual federal program amount of $7.8 million. Under the Compact, the first year cost to the United States for federal services and programs for the Marshall Islands will be approximately $9.2 million, including the cost attributable to continuation of post-secondary scholarship assistance to freely associated state citizens (Compact Section 223).

Enactment and implementation of the Compact will in no way diminish the commitment and responsibility of the United States Government to the continued extension of a broad range of federal programs to American Samoa and the other United States territories. Rather, from a comparative standpoint, the Compact will bring about a more limited participation by the freely associated states in the very programs Delegate Sunia seems to desire.

3. Grant Assistance.

The area of grant assistance, as much as that of program assistance, demonstrates the greater commitment of the Federal Government to the United States territories than to non-American areas such as the Trust Territory or the future freely associated states. For purposes of comparison, I will again use American Samoa and the Marshall Islands, given their similarity in population, although it should be remembered that the Marshall Islands comprises more than 1000 islands while in American Samoa, more than eighty percent of the population resides on one island, Tutuila.

Over the period of the last three fiscal years, American Samoa has received, for operations and construction from Congress through the Interior Department, an average annual grant of $26.2 million. The Administration has requested, for FY 1986, an operations and construction grant of $25.4 million for American Samoa. During the same three year period, the Marshall Islands, under trusteeship administration, received an annual average operations and construction grant of $15.2 million. For FY 1986 under the Compact, including all of the sections of the Compact cited by Delegate Sunia, the Marshall Islands would receive, for the equivalent of recurrent operations and construction, the amount of $26.4 million.

Historically, therefore, in terms of grant assistance from the United States, American Samoa has received significantly more annually than the Marshall Islands. Under the Compact, the amounts for operations and construction grant assistance will be approximately equivalent for American Samoa and the Marshall Islands, assuming present trends continue. As noted above, however, the Compact will bring about an important reorientation in the type of assistance the freely associated states will receive from the federal government. Thus, while grant assistance increases, federal program assistance decreases. In comparative terms, this means that for FY 1986, for operations, construction and federal programs, American Samoa is expected to receive approximately $39.2 million and the Marshall Islands, for equivalent purposes, is expected to receive $35.6 million. If recurrent, rather than first year projections for federal service expenditures for the Marshall Islands are used, the Marshall Islands amount would be reduced to $33.1 million, or less than 85% of what American Samoa is expected to receive.

It is important to point out, additionally, that the Marshall Islands and the Federated States of Micronesia will receive the amounts specified in the Compact for a fifteen year period, after which time the United States will have no obligation to provide any grant, service or program assistance. There is no similar cutoff period in the federal-territorial relationship. And that is as it should be.

Delegate Sunia mentioned in his remarks the situation with respect to the post-secondary educational institution in American Samoa. In fact, because American Samoa is a part of the United States, it is appropriate for that institution to continue to enjoy its land-grant status, which entitles it to receive, at various points, annual support funds and an endowment. The similar institution in the Trust Territory will not retain its status as a land-grant institution because the freely associated states will not be legally a part of the United States. This was a negotiated point which the freely associated states are willing to accept. It points out another area where the United States territories enjoy advantages over the future freely associated states.

With respect to the operation of Compact Section 217, which adjusts the base amounts of grant assistance set forth in the Compact for inflation, the amounts included in the computations in this letter include the effect of Compact Section 217. Thus, if present trends continue, American Samoa can expect to continue to receive substantially more than the Marshall Islands in terms of total federal assistance, even after the Compact amounts for the Marshall Islands are adjusted for inflation.

In a larger sense, the United States territories have traditionally received greater amounts from the federal government, including federal income tax rebates, than has the Trust Territory or than will the freely associated states in terms of federal grant and program assistance. Aside from the circumstances surrounding any particular budget year, there is every reason to believe that this trend will continue. The rationale underlying this situation is that the Federal Government has greater responsibilities to the United States citizens living in the United States and its territories than to the non-American citizens living in the Trust Territory or the future freely associated states.

4. Trade.

Delegate Sunia discussed the applicability of headnote 3(a) of the United States Tariff Schedules to the future freely associated states and asserts that such application will be "without the watchfulness of the Department of Commerce", in the context of relaxed environmental protection provisions and under an arrangement in which the freely associated states will be able to determine wages.

First, the very language Delegate Sunia cites in his statement shows that all the "exceptions, valuation procedures and other provisions" of headnote 3(a) will apply equally to the freely associated states. Thus, the same tests of origin of materials, certification of added value and other restrictions that the Customs Service applies to the materials entering the United States from the territories, which have enjoyed headnote 3(a) treatment for many years, will apply to the products of the freely associated states. Any Presidential or Congressional alteration of headnote 3(a) will apply to the freely associated states as it would to the territories. Thus, federal oversight will extend to the freely associated states as it does to the United States territories.

Second, I have already commented on the environmental protection provisions of the Compact and their comparison to the environmental protection provisions applicable to United States territories. The same basic formula applies in the context of the trade provisions of the Compact. The United States territories enjoy a position on environmental protection more beneficial than that which will extend to the freely associated states and more responsive than can apply to the fifty states.

Third, the federal minimum wage will not extend to the freely associated states, nor does it now extend to the Trust Territory. It also does not extend to American Samoa or the Northern Mariana Islands. Both the Marshall Islands and the Federated States of Micronesia have developed minimum wages for governmental employment and these wages, which comprise a strong base for determination of prevailing wages in the areas due to the high percentage of government employment, are comparatively high among the Pacific islands. Congress, of course, has the right to make United States minimum wage laws applicable to the United States territories. At present, if inapplicability of these laws is seen as beneficial, the future freely associated states will not enjoy benefits greater than American Samoa, or, perhaps more pertinently, than the Northern Mariana Islands, the United States territory emerging from the Trust Territory.

While on this topic, I would like to take the opportunity to respond to your invitation for comment on a hypothetical situation discussed at the hearing your subcommittee held on March 7, 1985. You requested of Mr. Berg of OMSN that we consider the question of whether all of the economic incentives of the Compact, taken in the context of anticipated low wages in the freely associated states, could potentially adversely affect the economies of the United States Pacific territories or the United States itself, by means of diverting the locus of employment.

It is important to note the present economic conditions of the Marshall Islands and the Federated States of Micronesia when considering whether any mix of incentives applied to them would be adequate to lure business and economic activity away from the United States or its territories. In the most recent reporting years, average family income in the Marshall Islands and the

Federated States of Micronesia was under $700 annually. The same statistic for American Samoa is almost ten times greater and, for Guam and the United States Virgin Islands, almost twenty times greater. The populations of all of the territories are larger, better educated, healthier and, by a considerable margin, better trained. The resource mix of the territories, even beyond human resources, is more productive. Finally, the territories can attract investment because they are a permanent part of the United States and under the legal system of the United States.

But the primary reason that the freely associated states are unlikely to pose a threat to the economy of the United States or its territories is that the Trust Territory, where all of the initial conditions of the freely associated states prevail, is now so distinctly lacking in productive investment or economic growth. We believe that the fifteen year incentive provisions of the Compact may be sufficient to allow the future freely associated states to approach the level that the United States territories enjoy today. The historic commitment of Congress in addressing the needs and evolving challenges of the United States territories will allow for continued, dynamic growth for them over the next decade and a half.

5. Taxation.

Like the trade provisions of the Compact, Delegate Sunia expresses concern that the freely associated states will receive benefits which will put them at a comparative advantage to the United States territories. We do not believe this can or will happen. When developing the tax provisions, the same guiding principles as applied to the trade provisions were used, that is, to provide to the freely associated states the same, but not greater, benefits as applied to the freely associated states. Even this principle does not provide fully equivalent treatment to the freely associated states since their benefits will expire, and there will be not obligation for the United States to renew them, upon the fifteenth anniversary of the effective date of the Compact.

With respect to Section 936 of the Internal Revenue Code, if that Section has been altered since January 1, 1980, then it will not extend to the freely associated states under the Compact. Rather, the Compact requires that separate arrangement addressing the same subjects as the expired or amended internal revenue provision be developed between the United States and the freely associated states. Such an arrangement would be in the form of a tax treaty and would not involve the extension of Internal Revenue Code provisions. Thus, the Compact's provisions anticipate alterations in the Internal Revenue Code, and will accommodate them. At the same time, the Administration, in negotiating the Compact, concluded that taxation benefits, and a reasonably specific assurance of their duration, would be of assistance to the future freely associated states in the area of investment attraction and economic development. The Administration continues to believe this is the case, as is indicated by President Reagan's resubmittal of the Compact to Congress.

I do not want to give the impression in this letter that we believe the terms of the Compact to be either unfair or inadequate to the future freely associated states. We believe, to the contrary, that they are fair, sufficient and fully consistent with the political status of free association. The peoples of the Marshall Islands and the Federated States of Micronesia have freely chosen, in valid acts of self-determination, to continue their relationship with the United States as freely associated states. They had the opportunity to choose United States territorial status but felt, by large majorities, that their destinies lie along different paths. But, contrary to the statements of some, the Marshallese and Micronesian people are not attempting to leave the American family. Rather, it is their effort, and ours, to make their continuing relationship with the United States relevant to the times and consistent with the freely expressed wishes of the people.

I appreciate the opportunity to comment on the points raised in Delegate Sunia's statement and on related points which have arisen in your Subcommittee's hearings. I believe that the statements of Marshall Islands Chief Secretary Oscar deBrum delivered to the Subcommittee's March 14 hearing and the statement of Federated States of Micronesia Vice-President Bailey Olter delivered to the Subcommittee's March 19 hearing also provide important information and responses relevant to the subject of this letter.

Sincerely,

Fred M. Zeder II
Ambassador

RON DE LUGO
DELEGATE, VIRGIN ISLANDS

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INSULAR AFFAIRS

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March 8, 1985

Honorable John F. Seiberling
Chairman,
Subcommittee on Public Lands
U.S. House of Representatives
Washington, D.C. 20515

Dear John:

At the hearing yesterday which I chaired at your request, three of our colleagues made points about the implications for the U.S. islands of the proposed Compact of Free Association with the Federated States of Micronesia and the Marshall Islands of which you should be aware.

Dan Akaka said that the Compact will have far-reaching affects on Hawaii because:

- o "we can expect an influx" of Micronesians who will be permitted free entry into the U.S. that will "heavily tax" social services and warrant impact aid;
- o most of the substantial amounts to be granted the Micronesians for capital improvements could go to foreign contractors; and
- o the Micronesian islands "could become a major drug cultivation, processing and transhipment point".

Fofo Sunia expressed his "apprehension at the lack of similar treatment" for U.S. territories in comparison with the Compact's provisions. "If 104,033 non-Americans in the FSM and the Marshalls will deserve all these benefits, then the 3,437,771 full-fledged Americans in the Northern Marianas, American Samoa, Puerto Rico, Guam, and the Virgin Islands will merit nothing less". Specifically, he noted:

- o the guaranteed availability to the freely associated states of the U.S. tax incentives for investment in U.S. territories which were available in 1980 but which have been curbed since then and which would be phased-out altogether in the Treasury tax plan;

- o trade preferences established for U.S. territories which, when combined with exemptions from federal environmental, wage, and other laws, could induce "businesses now resident in our territories to move to the FSM and the Marshalls"; and
- o guaranteed grant assistance which will be indexed for inflation, the unobligated balances of which will remain available, in and which is for purposes for which the U.S. territories do not receive grants.

Fofo's apprehensions were justified by administration witnesses who clearly stated that they were not prepared now to offer similar benefits to U.S. islands.

Both Dan and Fofo supported Compact benefits for the Micronesians if adequate provisions are made for U.S. islands. This is my position and that of our colleague Ben Blaz as well.

It is also the view of the Ranking Minority Member of our full committee, Don Young. He said, "I will not be able to lend my support to this Compact if I conclude that the Trust Territories will receive better treatment than our friends in the U.S. family."

As the full committee's informal spokesman on matters concerning the U.S. insular areas, I look forward to working with you, as chairman of the subcommittee with jurisdiction over the Compact, on provisions which are obviously needed for the U.S. islands.

Sincerely,

RON DE LUGO
Member of Congress